

FAO No. 15785 of 2018 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO No. 15785 of 2018 (O&M)
Date of Decision: November 25, 2019

Smt. Suman Devi and others

..... Appellants(s)

Versus

Rajbir Singh and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. S.S. Nain, Advocate
for the applicant-appellants.

None for respondents no.1 and 3 despite service.

Mr. Pradeep Kumar, Advocate
for respondent no.4.

LISA GILL, J.

This appeal has been filed seeking enhancement of the compensation awarded to the claimants vide award dated 10.04.2018, passed by learned Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as 'the Tribunal').

Claimants filed a petition under Section 166/140 of the Motor Vehicles Act, 1988, seeking compensation on account of death of Om Prakash, due to the injuries suffered by him in the motor vehicle accident, which took place on 10.03.2016. Deceased was claimed to be 43 years old and running a grocery shop and selling milk, thereby earning Rs.25,000/- per month.

Learned Tribunal on considering the evidence on record concluded that Om Prakash lost his life due to the injuries received by him in the accident in question, which took place on 10.03.2016, due to the rash and negligent driving of the offending bus bearing registration No. RJ-32-PA-0395, by its driver Rajbir Singh-respondent no.1. Learned Tribunal while assessing the income of the deceased to be Rs.9,800/- per month by considering him to be a labourer, awarded a sum of Rs.13,04,800/- as compensation to the claimants, which is detailed as under:-

Sr. No.	Heads	Calculations
1.	Income 9800 x 12	1,17,600/- per annum
2.	Income after deducting 1/4 th as personal living expenses of the deceased	1,17,600/- minus 29,400/- = 88,200/-
3.	Dependency after applying multiplier of 14	88,200 x 14 = 12,34,800/-
4.	Loss of consortium to petitioner no.1	40,000/-
5.	Loss of estate	15,000/-
6.	Funeral expenses	15,000/-
	Total	Rs.13,04,800/-

Present appeal has been filed seeking enhancement of the above aforesaid compensation.

Learned counsel for the appellants while not disputing the income of the deceased as assessed by the learned Tribunal, submits that increment towards future prospects should also be afforded. It is further submitted that compensation under the conventional heads be re-worked in terms of the judgment of Hon'ble Supreme Court **National Insurance**

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Company Limited v. Pranay Sethi and others, 2017(16) SCC 680 and ***Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors.* 2018(4) RCR Civil 333.** It is thus prayed that compensation be enhanced.

Learned counsel for the insurance company, however, refutes the above said arguments while submitting that just and reasonable compensation has been awarded by the learned Tribunal, which calls for no enhancement. Dismissal of this appeal is prayed for.

There is no dispute regarding death of Om Prakash in the motor vehicle accident, which took place on 10.03.2016, due to the rash and negligent driving of the offending bus bearing registration No. RJ-32-PA-0395, by its driver Rajbir Singh - respondent no.1. There is also no dispute regarding the income of the deceased as assessed by the learned Tribunal. The deceased was admittedly 43 years old at the time of accident. Keeping in view the judgment of the Hon'ble supreme Court in ***National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680***, 25% increment has to be afforded on account of future prospects. Deduction of 1/4th was correctly effected by learned Tribunal. Multiplier of 14 was correctly applied by learned Tribunal. However, in addition to the amount awarded by the learned Tribunal under the conventional heads, children of the deceased are entitled to a sum of Rs.40,000/- on account of loss of parental consortium. Reference in this regard can gainfully be made to the judgment of the Hon'ble Supreme Court in ***Magma General Insurance***

Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors. 2018(4) RCR Civil 333, as well as decision dated 14.03.2019 of this Court in FAO-2110-2016, title *Shri Ram General Insurance Company Ltd. Vs. Beant Kaur and others.*

Appellant-claimant is, thus, entitled to compensation which is re-worked as under:-

Sr. No.	Heads	Calculations
1.	Income 9800 x 12	1,17,600/- per annum
2.	Income after deducting 1/4 th as personal living expenses of the deceased	1,17,600/- minus 29,400/- = 88,200/-
3.	Total income after addition at the rate of 25% on account of future prospects	88,200 + 22,050 (88,200 x 25%) = 1,10,250/-
4.	Dependency after applying multiplier of 14	1,10,250 x 14 = 15,43,500/-
5.	Loss of estate	15,000/-
6.	Funeral expenses	15,000/-
7.	Loss of consortium to appellant no.1	40,000/-
8.	Loss of consortium to appellants no.2 to4	40,000/-
	Total	16,53,500/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Claimants shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount, from the date of filing of the claim petition till realization. Ratio of apportionment as well as manner of disbursement of compensation amongst the claimants as determined by the learned Tribunal shall remain the same.

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Appeal is accordingly disposed of.

November 25, 2019.

Sunil

**(LISA GILL)
JUDGE**

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No