

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

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**FAO-6032-2019 (O&M)
Date of decision: 10.05.2022**

Kamlesh Rani and others

.....Appellants

Versus

Rafiq Mohammad and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Wazir Singh, Advocate
for the petitioner.

Mr. Dinesh Kumar Prajapati, Advocate
for respondent No.3-insurance company.

MANJARI NEHRU KAUL, J. (ORAL)

CM-20047-CII-2019

Prayer in the instant application is for condonation of delay of 45 days in filing the appeal.

Mr. Dinesh Kumar Prajapati, Advocate has put in an appearance on behalf of respondent No.3-insurance company and filed his power of attorney in the Court today which is taken on record subject to all just exceptions.

Learned counsel appearing for respondent No.3 submits that he does not have any objection in allowing the application.

In view of the reasons mentioned in the application and no objection from the counsel opposite, the application is allowed and the delay of 45 days in filing the appeal is hereby condoned.

FAO-6032-2019 (O&M)

The instant appeal has been preferred by the claimants against the award dated 01.04.2019, passed by the learned Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal') in a claim petition filed under Section 166 and 140 of the Motor Vehicles Act, 1988, whereby the following compensation was awarded to the widow and three children of deceased Jaspal Singh, who was stated to be 50 years of age at the time of the accident in question:-

Sr. No.	Head	Amount
1.	Monthly income	Rs.8,280/-
2.	Annual income	12x8280=Rs.99,360/-
3.	Multiplier	13
4.	Income after applying multiplier	13x99360=Rs.12,91,680/-
5.	Deduction towards personal expenses (1/4th)	Rs.3,22,920/-
6.	Dependency	Rs.9,68,760/-
7.	Future prospects	25%
8.	Dependency after future prospects	Rs.12,10,950/-
9.	Funeral expenses	Rs.15,000/-
10.	Loss of estate	Rs.15,000/-
11.	Consortium	Rs.40,000/-
	Total Compensation	Rs.12,80,950/-

The respondents were held jointly and severally liable to pay the amount of compensation to the appellants-claimants. Out of the total amount of compensation, Rs.40,000/- was given to appellant No.1-claimant No.1 being widow of the deceased and out of the remaining amount of Rs.12,40,950/-, 50% was awarded to appellant No.1-claimant No.1 and the remaining 50% was ordered to be shared by appellants-claimants No.2 to 4 in equal shares.

Brief facts of the case may be noticed. On 26.06.2017 at

about 06:00 P.M. appellant No.2 along with his father Jaspal Singh (since deceased), mother appellant No.1 and his aunt were travelling in an Alto car bearing registration No.HR05-Y-3905. When they reached near Government Nursery Shahpur just ahead of Bus Stop, Hemda, a vehicle i.e. Super Carry (Travel Tempo) bearing registration No.HR45-C-3031 (offending vehicle) came rashly and negligently driven from Kaithal side. It collided with the Alto car as a result of which the offending vehicle turned turtle. The Alto car also came to a halt. All the persons travelling in the Alto car including appellants No.1, 2 and the deceased received serious and multiple injuries. Deceased Jaspal Singh, however, succumbed to his injuries on the same day. FIR No.655 dated 27.06.2017 under Section 279, 337 and 304A IPC was registered against respondent No.1. On the basis of evidence and material led, the Tribunal awarded the compensation which already stands reproduced above.

Learned counsel for the appellants submits that the amount of compensation awarded was meagre and not in consonance with the ratio laid down by the Hon'ble Apex Court in *National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270* and *Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and others, 2018(4) RCR (Civil) 333*. He further submits that the Tribunal failed to appreciate that the deceased was running a Kiryana shop and earning approximately Rs.20,000/- per month. The Tribunal, therefore, wrongly assessed the monthly income of the deceased at Rs.8,280/- by treating him as a labourer. He further submits that the Tribunal also failed to award any compensation for loss of parental consortium to appellants

No.2 to 4 i.e. the children of the deceased.

Learned counsel appearing for respondent No.3 insurance company while opposing the prayer and submissions made by the counsel opposite submits that the Tribunal had rightly assessed the monthly income of the deceased in the sum of Rs.8,280/- by treating him as a labourer and the amount assessed was as per the notification for the relevant period by the State Government. He further submits that no evidence was led by the appellants-claimants with respect to the deceased running a kiriyana shop. Learned counsel, however, has not been able to controvert that the appellants-claimants No.2 to 4 being children are entitled to parental consortium as per the settled law.

I have heard learned counsel for the parties and perused the material placed on record.

This Court does not find any reason to interfere with the monthly income assessed by the Tribunal in the sum of Rs.8,280/- on the basis of minimum wages notified in respect of a labourer by the State Government. Admittedly, no evidence has been brought on record by the appellants-claimants qua the deceased running a kiriyana shop. However, appellants No.2 to 4 are entitled to loss of parental consortium in the sum of Rs.40,000/- as per the settled law. The Hon'ble Supreme Court in ***Pranay Sethi's case*** (*supra*) has quantified the amount in the sum of Rs. 15,000/- each for loss of estate and funeral expenses in addition to Rs. 40,000/- each for loss of consortium. Still further, it has been held by the Hon'ble Supreme Court that the aforesaid amounts would be subject to 10% enhancement after every three years. Therefore, the claimants would be entitled to 10%

enhancement *qua* the above-mentioned conventional heads, as was also re-assessed by the Hon'ble Supreme Court in *Rasmita Biswal and others Vs. Divisional Manager, National Insurance Co. Ltd. and another : 2022(1) RCR(Civil) 344* as per the ratio laid down in *Pranay Sethi's case (supra)*. Hence, the amount of compensation under the convention heads stands modified to Rs.16,500/- each for loss of estate & funeral expenses. Besides this, the three children of the deceased i.e. appellants No.2 to 4 are also entitled to Rs.44,000/- each, for loss of parental consortium.

The compensation thus payable to the claimants would be as follows:-

Sr. No.	Head	Amount
1.	Monthly income	Rs.8,280/-
2.	Annual income	12x8280=Rs.99,360/-
3.	Future prospects (25%)	Rs.99,360/- x 25% = Rs.24,840/-
4.	Total annual income	Rs.1,24,200/-
5.	Deduction towards personal expenses (1/4th)	Rs.31,050/-
6.	Loss of annual future earnings	Rs.93,150/-
7.	Multiplier	13
8.	Loss of future earnings	Rs.93,150/- x 13=Rs.12,10,950/-
9.	Loss of consortium (spousal to widow and parental to three children)	Rs.44,000/- x 4 = Rs.1,76,000/-
10.	Funeral expenses	Rs.16,500/-
11.	Loss of estate	Rs.16,500/-
	Total Compensation	Rs.14,19,950/- (rounded off to Rs.14,20,000/-)

The claimants are, therefore, held entitled to a total sum of Rs.14,20,000/- as compensation along with interest @ 12% per annum

from the date of filing of claim petition till its actual realization as awarded by the Tribunal, in terms of the same apportionment.

With these modifications, the present appeal stands disposed of in the above terms.

10.05.2022

(MANJARI NEHRU KAUL)
JUDGE

Vinay

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No