

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

FAO-1124-2015 (O&M)

**Reserved on: October 14, 2022
Pronounced on: October 21, 2022**

Kanta and another Appellants
Versus
Satish Kumar and ors. Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present:- Mr. Ashwani Bakshi, for the appellants.
None for respondent No.2.
Mr.D.K. Prajapati, Advocate for
respondent No.3-Insurance Company.

HARKESH MANUJA, J.

Present appeal has been filed by the appellants questioning the adequacy of compensation awarded by the learned Motor Accident Claims Tribunal, Rohtak, for short 'the Tribunal', vide its award dated 01.10.2014.

The contentions raised on behalf of learned counsel for the appellants in this appeal are very brief that the learned Tribunal wrongly applied the multiplier of '15' while considering the age of claimants; whereas in view of settled proposition of law by the Hon'ble Apex Court, in ***National Insurance Company Ltd. Vs. Pranay Sethi and others***, 2017(4) RCR (Civil) 1009, ***Smt. Sarla Verma and Others Versus Delhi Transport Corporation and Another***, reported as 2009(3) R.C.R (Civil) 77:-

- i) Future prospects @ 50% should have been awarded;
- ii) Multiplier of '18' should have been applied as the age of the deceased was 18 at the time of death; &

- iii) Compensation under conventional heads should have been awarded;

On the other hand, learned counsel for Insurance Company contends that compensation awarded under the head of 'Love and affection' should be reduced in view of the above mentioned judgments.

Heard learned counsel for the parties and gone through the paper-book. I find force in the arguments raised by learned counsel for the appellants. Learned Tribunal wrongly applied the multiplier of '15' while taking into consideration the age of claimants/ parents of the deceased; whereas as per the observations made by the Hon'ble Supreme Court in case titled as **Sube Singh and another Vs. Sham Singh (deceased) and others**, Civil Appeal No. 7176 of 2015, decided on 09.02.2018, while applying the multiplier, the age of deceased has to be taken into consideration. Relevant part of **Sube Singh's** case (supra) is reproduced as under:-

"The legal position, however, is no more res integra. In the case of Munna Lal Jain (supra) decided by a three Judge Bench of this Court, it is held that multiplier should depend on the age of the deceased and not on the age of the dependents."

Thus applying the aforesaid, compensation has to be calculated by applying the multiplier of '18' instead of '15'. Further in view of **Pranay Sethi's** case (supra) as well as **Sarla Verma's** case (supra), it cannot be denied that future prospects @ 50% should have been awarded.

Besides this, applying the principle of law laid down by Hon’ble Supreme Court in **Pranay Sethi’s case (supra)**, the claimants are entitled for Rs.16,500/- as compensation under the head of funeral expenses, loss of consortium (filial) is to be awarded to the tune of Rs.88,000/- as there are two dependents and Rs.16,500/- towards loss of estate by applying 10% increase under the conventional heads.

Further, besides it, award of compensation under the head of loss of love and affection is liable to be set aside in view of the law laid down by the Hon’ble Supreme Court in case of “**Satinder Kaur @ Satwinder Kaur & Others. Versus United India Insurance Co. Ltd.**” reported as 2020(3) R.C.R Civil 75, as filial consortium has been awarded. Relevant Para 8 of abovementioned judgement is reproduced hereinafter:-

“The Tribunals and High Courts are directed to award compensation for loss of consortium, which is a legitimate conventional head. There is no justification to award compensation towards loss of love and affection as a separate head.”

In view of the discussions made hereinabove, the appellants are entitled for following enhanced compensation, as detailed in the table given hereunder:-

Sr.No.	Particulars	Amount (Rs.)
1.	Annual Income of deceased (Rs.6000x12)	Rs.72,000/-
2.	Add 50% of Future prospects	Rs.36000/-
3.	Total Income	Rs.1,08,000/-
4.	Deduction (1/2) i.e. 50%	Rs.54,000/-
5.	Multiplier of 18 as per age of 18 years	Rs.9,72,000/-

	(Rs.54,000 x 18)	
6.	Funeral Expenses	Rs.16,500/-
7.	Loss of Consortium	Rs.88,000/-
8.	Loss of Estate	Rs.16,500/-
	Total Compensation	Rs.10,93,000/-
	Amount Awarded by the Tribunal	Rs.6,65,000/-
	Enhanced Amount	Rs.4,28,000/-

The grant of interest @ 7.5% per annum is not just in view of the facts and circumstances of the present case; rather as per the observations made by the Hon’ble Supreme Court in **Smt. Supe Dei and others Vs. National Insurance Company Limited and other**, (2009) (4) SCC 513 approved in a subsequent judgment titled as **Puttamma and others Vs. K.L.Narayana Reddy and another**, 2014 (1) RCR (Civil) 443, the interest is enhanced to 9% per annum on the amount of compensation awarded to the claimants from the date of institution of claim petition till its realization. Needless to mention here that the amount of compensation already paid to the claims shall be deducted from the enhanced compensation.

The present appeal is partly allowed and partly dismissed in the manner, indicated hereinabove.

Pending miscellaneous application(s), if any, shall also stand disposed of.

October 21, 2022
sanjay

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No