

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

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**FAO-2161-2014 (O&M)
Decided on : 13.05.2022**

Smt. Suresh and others

. . . Appellants

Versus

Rahish and others

. . . Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Akash Vashisth, Advocate for
Mr. Sanjay Vashisth, Advocate
for the appellants.

Respondent No.1 proceeded *ex-parte*
vide order dated 17.08.2015

Mr. Suman Jain, Advocate with
Mr. Manmohan, Advocate
for respondent No.3 – Insurance Company.

Service of respondent No.2 dispensed with.

MANJARI NEHRU KAUL, J. (ORAL)

CM-15609-CII-2018

This is an application filed under Section 5 of the Limitation Act read with Section 151 CPC for condonation of delay of 15 days in filing the present appeal.

Notice of this application was issued.

After hearing learned counsel for the parties and perusing the averments made in the application, which is supported by an affidavit of appellant No.1, the delay of 15 days in filing the appeal is hereby condoned.

CM stands disposed off.

FAO-2161-2014

At the outset, learned counsel for the appellants-claimants submits that service of respondent No.2 can be dispensed with, as he was proceeded against *ex-parte* before the Tribunal.

Ordered accordingly.

The appellants-claimants who are father, mother and two minor sisters respectively, of the deceased Bablu, are impugning the award dated 16.10.2013 passed by learned Motor Accidents Claims Tribunal, Rewari (hereinafter referred to as 'the Tribunal') in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988, vide which their claim petition was allowed and they were awarded Rs.6,13,856/- @ 7.5% per annum from the date of filing of the petition till its actual realization. The amount awarded by the Tribunal in the sum of Rs.6,13,856/- was assessed and granted as follows:-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.4500/-
2.	Annual Income	12x4500=Rs.54,000/-
3.	Future Prospects	--
4.	Total Annual Income	Rs.54,000/-
5.	Deduction (50%)	Rs.27,000/-
6.	Annual Dependency	Rs.27,000/-
7.	Multiplier	14
8.	Total Dependency	Rs.27000x14=Rs.3,78,000/-
9.	Loss of Consortium	--
10.	Filial Consortium to Mother and Father	--
11.	Medical Reimbursement	Rs.2,10,856
12.	Funeral Expenses	Rs.25,000/-
13.	Loss of Estate	--
14	Total Compensation	Rs.6,13,856/-

2. The case of the appellants-claimants in brief is that on 14th

May, 2011, at about 2:00 P.M., the deceased Bablu was standing on the kacha portion of the road in front of his house. A truck bearing registration No. HR-38L/3131 (hereinafter referred to as 'the offending vehicle') came in a rash and negligent manner and hit the deceased, as a result of which, he sustained grievous injuries. Though he was removed to the hospital, however, he succumbed to his injuries on 22.05.2011. An FIR bearing No. 78, dated 15.05.2011, under Sections 279 & 338 of IPC, was registered against respondent No.1 i.e. the driver of the offending vehicle at the instance one Mahender Singh. The deceased was stated to be 21 years of age on the date of the accident in question. It was claimed that he was earning a sum of Rs.20,000/- p.m. from agriculture and dairy farming.

3. Learned counsel for the appellants/claimants *inter alia* contends that the Tribunal erred in applying a wrong multiplier as per the age of the mother of the deceased, which was against the settled law. He submits that since the deceased was 22 years of age, the correct multiplier, which should have been applied in the case in hand while assessing the compensation should have been 18. He further submits that the deceased was treated as a labourer and his monthly income was assessed in the sum of Rs. 4500/-, which yet again was on the lower side, as the minimum wages notified by the State Government for the relevant period in the case of a labourer was Rs. 5200/- p.m. Learned counsel still further contends that even under the other conventional heads like; loss of estate, funeral expenses and loss of filial consortium, future prospects etc., the appellants-claimants had not been awarded any compensation and the same required to be reassessed

in the light of the settled law in *National Insurance Co. Vs. Pranay Sethi, 2017 SCC 270* and *Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram & Ors., 2018(4) RCR (Civil) 333*.

4. On the other hand, learned counsel appearing for respondent No.3 – Insurance Co., while opposing the submissions made by counsel opposite, submits that the two minor sisters of the deceased Bablu i.e. appellants No.3 & 4, were not entitled to any filial consortium. He further contends that in the absence of any proof of income of the deceased brought on record before the Tribunal, it had rightly assessed the income of the deceased @ Rs.4500/- p.m. after taking into account the minimum prescribed wages notified by the State of Haryana for the relevant period *qua* labourer. Thus, the income was rightly assessed by the Tribunal and did not warrant any interference. Learned counsel was, however, not able to dispute that an incorrect multiplier had been applied by the Tribunal as per the age of the mother of the deceased. Still further, learned counsel for the insurance company conceded that the appellant-claimants were entitled to compensation *qua* future prospects as well.

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

6. This Court concurs with the submissions made by the learned counsel for the appellants-claimants that the correct multiplier which should have been applied by the Tribunal in the case in hand would be 18, as the deceased was 22 years of age at the time of accident in question. Since the minimum wages notified in the case of labourer by the State Government for the relevant period was Rs. 5200/- p.m.,

the monthly income of the deceased would require to be reassessed accordingly. Further, the appellants-claimants which include father, mother and two minor sisters of the deceased would also be entitled to filial consortium. Thus, the compensation awarded by the Tribunal requires to be reassessed and modified in consonance with the judgment rendered by the Constitution Bench of Hon'ble Supreme Court in *Pranay Sethi's case (supra)*.

7. The Hon'ble Supreme Court in *Pranay Sethi's case (supra)* has quantified the amount in the sum of Rs.15,000/- each, to be awarded for loss of estate, funeral expenses and Rs.40,000/- loss of consortium. Still further, it has been held that the aforesaid amount would be further subject to 10% enhancement after every three years. Therefore, the appellants would be entitled to 10% enhancement *qua* the compensation under conventional heads, as has also been held and reassessed by 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 conventional heads stands modified to Rs.16,500/- each, for loss of estate & funeral expenses. Besides this, the appellants-claimants, who are the parents and two minor sisters of the deceased, are entitled to Rs.44,000/- each, for loss of filial consortium, respectively. Since, the Tribunal did not award any compensation *qua* future prospects, the appellants-claimants are also entitled to future prospects to the extent of 40% keeping in mind the age of the deceased, who was 22 years old.

8. Resultantly, the compensation is re-assessed as follows:-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.5200/-
2.	Annual Income	12x5200=Rs.62,400/-
3.	Future Prospects (40%)	Rs.62,400x40%=Rs.24,960/-
4.	Total Annual Income	Rs.87,360/-
5.	Deduction towards personal expenses ($\frac{1}{4}$)	Rs.21,840/-
6.	Annual Dependency	Rs.65,520/-
7.	Multiplier	18
8.	Total Dependency	Rs.65520 x 18=Rs.11,79,360/-
9.	Filial Consortium to Mother and Father	Rs.88,000/- (i.e.Rs.44,000/- each)
10.	Sibling consortium to two minor sisters	Rs.88,000/- (i.e.Rs.44,000/- each)
11	Funeral Expenses	Rs.16,500/-
12	Loss of Estate	Rs.16,500/-
13	Total Compensation	Rs.13,88,360/-

The appellants-claimants are therefore, held entitled to a total of Rs.13,88,360/- as compensation along with interest @ 8% per annum from the date of filing of petition till its actual realization to be paid by the respondents jointly and severally.

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

(MANJARI NEHRU KAUL)
JUDGE

May 13, 2022

J.Ram

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