

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

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FAO-6048-2015

Date of decision: 05.05.2022

Kashmir Singh and another

.....Appellants

Versus

Daljeet Singh and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Hardeep Singh Dhillon, Advocate
for the appellants.

Mr. Pardeep Kumar, Advocate
for respondent No.2-Insurance Company.

MANJARI NEHRU KAUL, J. (ORAL)

The instant appeal has been preferred by the appellants/claimants against the award dated 25.05.2015, passed by the learned Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as 'the Tribunal') in a claim petition filed under Section 166/140 of the Motor Vehicles Act, 1988, whereby, compensation in the sum of Rs.6,25,000/-, was awarded to the appellants/claimants i.e. parents of deceased Gurvinder Singh (hereinafter referred as 'the deceased'), who was stated to be 16 years of age at the time of the accident in question.

A few facts as pleaded in the claim petition by the appellants/claimants may be noticed. On 29.11.2013 at about 06:00 P.M., the deceased took lift on the motorcycle bearing registration No.HR-09D-3097 (hereinafter called as 'offending vehicle'), being driven by Daljeet Singh. On account of rash and negligent driving of

Daljeet Singh, they met with an accident as a result of which the deceased received serious injuries. Lateron, the deceased succumbed to those injuries. The Tribunal on the basis of evidence led by the parties, assessed and awarded the following compensation in the sum of Rs.6,25,000/- to the appellants/claimants:-

Sr. No.	Head	Amount
1.	Annual Income	Rs.30,000/-
2.	Multiplier	15
3.	Dependency	Rs.30,000/- x 15 = Rs.4,50,000/-
4.	Pain and suffering	Rs.75,000/-
5.	Future prospects	Rs.75,000/-
6.	Funeral expenses	Rs.25,000/-
	Total compensation	Rs.6,25,000/-

Learned counsel for the appellants/claimants submits that the compensation awarded vide impugned award is meagre and inadequate, not being in consonance with the settled law. Learned counsel submits that since the deceased was a 16 year old boy, the correct multiplier which should have been applied in the case should have been '18' and not '15' which had been instead erroneously applied by the learned Tribunal. It was also submitted that the income of the deceased was wrongly assessed at Rs.30,000/- per annum which was on the lower side and thus required to be enhanced to about Rs.12,500/- per month. Learned counsel still further submits that under the conventional heads also the Tribunal had erred in not granting compensation as per ratio laid down in *National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270; Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and others : 2018(4) RCR (Civil)*

333 and ***Reshma Kumari Vs. Madan Mohan : 2013(9) SCC 65.***

Per contra, learned counsel appearing for respondent No.2- insurance company while opposing the prayer and submissions made by the counsel opposite submits that the income of the deceased had rightly been assessed at Rs.30,000/- per annum which was in consonance with ***Krishan Gopal and another Vs. Lala and others : 2013(10) Scale 580.*** He further submits that under the conventional heads like funeral expenses, pain and suffering, future prospects, the Tribunal had granted exorbitant compensation which thus required to be reassessed in consonance with the ratio laid down in ***Pranay Sethi's case (supra).***

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

This Court is not inclined to interfere with the income assessed by the Tribunal at Rs.30,000/- per annum by placing reliance upon ***Krishan Gopal's case (supra).*** However, as per the settled law in ***Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. : (2009) 6 SCC 121,*** the correct multiplier which should have been applied in the case in hand should have been '18' as admittedly the deceased was a 16 year old boy. Since the learned Tribunal did not award any compensation qua loss of filial consortium to the appellants/claimants, who are parents of the deceased, they would be entitled to Rs.40,000/- each. However, this Court feels that the Tribunal has assessed the funeral expenses on the higher side i.e. Rs.25,000/- which admittedly is not in consonance with the ratio laid down by the Hon'ble Supreme Court in ***Pranay Sethi's case (supra)*** wherein the Hon'ble Supreme

Court 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 appellants/claimants would be entitled to 10% enhancement under 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* in accordance with 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 and funeral expenses. Besides this, the appellants/claimants, who are parents of the deceased, are entitled to Rs.44,000/- each, for loss of filial consortium.

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

Sr. No.	Head	Amount
1.	Annual Income	Rs.30,000/-
2.	Multiplier	18
3.	Dependency	Rs.30,000/- x 15 = Rs.5,40,000/-
4.	Loss of filial consortium	Rs.44,000/- each = Rs.88,000/-
5.	Loss of estate	Rs.16,500/-
6.	Funeral expenses	Rs.16,500/-
	Total compensation	Rs.6,61,000/-

The appellants/claimants are, therefore, held entitled to a total sum of Rs.6,61,000/- as compensation along with interest @ 8%

per annum from the date of filing of claim petition till its actual realization, in terms of the apportionment decided by the Tribunal.

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

05.05.2022

(MANJARI NEHRU KAUL)
JUDGE

Vinay

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