

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

FAO-8081-2016 (O&M)

Date of decision: 20.12.2022

Manju and others

...Appellants

Versus

Surinder Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. V.S. Cooner, Advocate for
Mr. J.S. Cooner, Advocate for the appellants.

Mr. D.K. Prajapati, Advocate for respondent No.3.

H.S. MADAAN, J. (Oral)

Briefly stated facts of the case are that on account of death of Shamsheer Singh @ Titu in a motor vehicular accident, which took place on 10.12.2015 at about 8.30 pm in the area near Radhika Dharam Kanta near bus stand, Village Holi on Barara-Dosaraka road, statedly on account of rash and negligent driving of Alto car No.HR-01-AM-9389 by respondent No.1 Surinder Singh, legal representatives of the deceased namely his widow Manju, aged about 30 years, minor daughters Mahima and Bhavi, aged 14 and 12 years respectively and minor son Tanmay, aged about 7 ½ years had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation, against driver, owner and insurance company of the car in question.

Notice of the claim petition was given to the respondents

who put in appearance and offered a contest. Issues on merits were framed. Parties were afforded adequate opportunities to lead evidence.

After hearing arguments, Motor Accidents Claims Tribunal, Ambala, vide award dt. 01.08.2016 had granted compensation of Rs.22,61,000/- to the claimants payable by all the respondents jointly and severally along with interest @ 7.5% p.a., from the date of filing of petition till actual realization. .

The claimants were not satisfied with the amount of compensation awarded to them by the Tribunal and they have approached this Court by way of filing of the present appeal seeking enhancement of compensation so awarded. Notice of the appeal was given to the respondent No.3-insurance company and it has put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

The appeal is basically for enhancement of compensation. The trial Court on analysis of evidence adduced by the parties has taken the age of deceased to be more than 45 years and his annual income from running barber shop to be Rs.2,03,695/-. Keeping in view the number of dependent family members, $\frac{1}{4}$ th of the amount was deducted towards personal and living expenses. In that way, dependency of claimants was worked out to Rs.1,52,771/- per annum. However, the Tribunal did not make any addition towards future prospects. In terms of the judgment **National Insurance Company Limited Versus Pranay Sethi and Ors., 2017(4) RCR(Civil)1009**, in case the deceased was self employed, an

addition of 25% is to be made when he was in age group of 40-50 years.

Learned counsel for respondent No.3 in all fairness has admitted such legal position.

Making that addition, the annual dependency of deceased is worked out to Rs.1,90,963/-. Multiplier of 13 has been rightly applied. In that way, the total compensation is assessed as Rs.24,82,519/-.

The Tribunal has awarded a sum of Rs.1 lakh to widow of the deceased namely Smt. Manju under the head loss of consortium. In view of the judgment **Magma General Insurance Co. Ltd. Vs. Nanu Ram @ Chuhru Ram & Ors., 2018 (4) Law Herald 2786 (SC)**, all the claimants are entitled to get compensation to the tune of Rs.40,000/- under this head. Therefore, the amount is worked out to Rs.1,60,000/-. Further, an amount of Rs.15,000/- is awarded to the claimants under the head funeral expenses and Rs.15,000/- towards loss of estate. Thus, the total compensation is worked out to Rs.26,72,519/-. The Tribunal has awarded compensation of Rs.22,61,000/- to the claimants. Thus, an additional compensation payable to the claimants is arrived at Rs.4,11,519/-. The claimants would be entitled to get interest @ 7.5% p.a., on additional compensation from the date of filing of claim petition till actual realization. Additional amount would be apportioned amongst the claimants in the same ratio as directed by the Tribunal with regard to compensation originally awarded.

The appeal stands disposed of accordingly.

20.12.2022

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No