

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

242-2

**FAO-4545-2018 (O&M)
Decided on : 30.03.2022**

The New India Assurance Company Ltd.

... Appellant(s)

Versus

Jagdish and others

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. S.S. Sidhu, Advocate
for the appellant-Insurance Company.

Mr. Rajat Mor, Advocate
for respondents No.1 to 3.

MANJARI NEHRU KAUL, J. (Oral)

The instant appeal has been preferred by the Insurance Company against the award dated 28.02.2018, passed by the learned Motor Accident Claims Tribunal, Jhajjar (hereinafter referred to as 'the Tribunal'), whereby, the compensation in the sum of Rs. 16,60,800/-, was awarded to the claimants/respondents No.1 to 3 i.e. father, mother and brother of deceased Pappu, who was 22 years of age at the time of accident in question.

A few facts as pleaded in the claim petition by the claimants/respondents No.1 to 3 may be noticed. On 04.07.2017, while Pappu and Jai Singh (both deceased), were going to village Kosli on their motorcycle bearing registration No. HR99A-ABM 4947, a truck bearing registration No. HR63-B-7392, being driven rashly and negligently at a high speed by its driver, struck against their motorcycle. Both the occupants of the motorcycle fell on the road and sustained multiple grievous injuries on various parts of their bodies. While Jai Singh died at the spot after being

crushed under the truck, Pappu succumbed to his injuries at General Hospital, PGIMS, Rohtak, where he was admitted after the accident in question. The Tribunal on the basis of evidence led by the parties, assessed and awarded the following compensation in the sum of Rs.16,60,800/- to the claimants-respondents No.1 to 3 :-

<i>Sr. No.</i>	<i>Head</i>	<i>Amount</i>
1.	Monthly Income	Rs.9000/-
2.	Future Prospects (40%) (9000 x 40/100)	Rs. 12600 (9000 + 3600)
3.	Annual Income	12 x 12600 = Rs.1,51,200/-
4.	Deduction (½)	Rs.75,600/-
5.	Annual Dependency	Rs.75,600/-
6.	Multiplier	18
7.	Total Dependency	Rs.75,600 x 18=Rs.13,60,800/-
8.	Loss of estate	Rs. 13,60,800/-
9.	Loss of Consortium (50000 x 2)	Rs.1,00,000
10.	Loss of old age support	Rs.1,00,000
11.	Mental agony	Rs.50,000
12.	Funeral Expenses	Rs.50,000/-
	Total Compensation (8+9+10+11+12)	Rs.16,60,800/-

Appellant-Insurance Company was directed to pay the amount of compensation to the claimant-respondent No.1 (i.e. father of the deceased), along with interest @ 9% per annum, from the date of the claim petition till the date of actual realization of the payment, within a period of two months of the award.

Learned counsel for the appellant-Insurance Company has challenged the award passed by the Tribunal primarily on the ground that the Tribunal gravely erred in assessing the income of the deceased as Rs. 9000/- p.m. without there being any proof in respect thereto. It was

submitted that the income of the deceased should have been assessed as per the minimum wages payable to a daily wager, as notified by the Government of Haryana, at the relevant time, which was Rs. 8280/- p.m. It was also submitted that the amount of the compensation awarded under the conventional heads also required to be re-assessed 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 and others, 2018(4) RCR (Civil) 333*.

Learned counsel appearing for respondents No.1 to 3 on the other hand vehemently opposed the submissions made by the counsel for the appellant-Insurance Company by urging that the deceased was earning approximately Rs. 700/- per day and was enjoying good health and physique. It was submitted that the compensation awarded was rather on the lower side.

After hearing learned counsel for the parties and on perusing the case file, this Court is of the opinion that since the compensation awarded under loss of old age support, mental agony and funeral expenses, is on the higher side and not in consonance with the judgment rendered by the Constitution Bench of Hon'ble Supreme Court in *Pranay Sethi's case (supra)* and *Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. : (2009) 6 SCC 121*, it needs to be reassessed and modified in the following terms:

The age of the deceased was between 22-25 years, therefore, in view of the law laid down by the Hon'ble Supreme Court in *Sarla Verma's case (supra)*, the Tribunal has rightly applied the multiplier of '18' .

quantified the amount in the sum of Rs.15,000/- each, to be awarded for loss of estate & funeral expenses and Rs.40,000/- for 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 and Rs.44,000/- loss of consortium.

This Court, however, does not find any merit in the submissions made by the counsel for the appellant company *qua* the monthly income of the deceased having been wrongly assessed. In the opinion of this Court no interference is warranted as far as the monthly income assessed by the Tribunal is concerned, since the minimum wages notified by the Government of Haryana in respect of a daily wager for the relevant period was Rs.8,280/- per month, this Court is of the opinion that it can be rounded off to Rs.9,000/- per month.

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

<i>Sr. No.</i>	<i>Head</i>	<i>Amount</i>
1.	Monthly Income	Rs.9000/-
2.	Annual Income	12 x 9000=Rs.1,08,000/-
3.	Future Prospects (40%)	Rs.1,08,000 x 40%=Rs.43,200/-
4.	Total Annual Income	Rs.1,51,200/-
5.	Deduction (1/2) or (50%)	Rs.75,600/-
6.	Annual Dependency	Rs.75,600/-

7.	Multiplier	18
8.	Total Dependency	Rs.75,600 x 18 = Rs. 13,60,800/-
9.	Filial Consortium to parents and brother	Rs.44,000/- each i.e. Rs.1,32,000/- (in total)
10.	Funeral Expenses	Rs.16,500/-
11.	Loss of Estate	Rs.16,500/-
12.	Total Compensation	Rs.15,25,800/-

The claimants shall be entitled to interest at the rate of 9% per annum (as awarded by the Tribunal) on the entire amount, from the date of filing of the claim petition till realization.

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

(MANJARI NEHRU KAUL)
JUDGE

March 30, 2022

J.Ram

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