

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

FAO-3183-2019 (O&M)
Decided on : 08.07.2022

Ompati Devi

..... Appellant

Versus

Anil and others

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Ramesh Sindhar, Advocate
 for the appellant.

None for respondents No.1 and 2.

Mr. R.C.Kapoor, Advocate
for respondent No.3.

Manjari Nehru Kaul, J.(Oral)

Instant appeal has been filed by the appellant-claimant impugning the award dated 13.09.2018 passed by Motor Accident Claims Tribunal, Karnal (hereinafter called as 'the Tribunal') in the claim petition under Section 166 of Motor Vehicles Act wherein the following compensation was assessed and awarded to the appellant on account of death of her son Jai Kumar @ Kala , aged 30 years, in a motor vehicular accident on 25.04.2017:-

<i>Sr. No.</i>	<i>Head</i>	<i>Amount</i>
1	Monthly income	Rs.10,000/-
2	Annual income 12 x 10,000/-	Rs.1,20,000/-
3	40% to be added as future prospects i.e. Rs.2,000/-(4000-2000(1/2) x 12 x 17 = 4,08,000/-)	Rs.4,08,000/-

<i>Sr. No.</i>	<i>Head</i>	<i>Amount</i>
4	½ deducted as personal expenses of the deceased	Rs.1,20,000 x ½ = Rs.60,000/-
5	Compensation after applying multiplier of 17	Rs.60,000 x 17 = Rs.10,20,000/-
6	Loss of Estate	Rs.15,000/-
7	Transportation and funeral expenses	Rs.15,000/-
	Total compensation	Rs.14,58,000/-

Brief facts of the case as pleaded in the claim petition are thus; on 25.04.2017 at about 2.00 pm when the deceased was riding his motorcycle, a dumper bearing registration No.HR-56A-9646 (hereinafter referred to as 'offending vehicle') came in a rash and negligent manner and collided with the motorcycle of the deceased. Resultantly, the deceased fell down on the road and received multiple and grievous injuries, which proved to be fatal. It was claimed that the deceased was an agriculturist and running a dairy farm. The claimant was the widowed mother of the deceased and was solely dependent on him.

Learned counsel for the claimant submits that the Tribunal while passing the impugned award erred in assessing the monthly income of the deceased at Rs.10,000/- per month, which was grossly on the lower side. He submits that since the deceased was running a milk dairy, he was earning approximately Rs.50,000/- per month. He further submits that even under the conventional heads the amount of compensation awarded was inadequate and not in consonance with the settled law inasmuch as the claimant was not granted any amount towards loss of filial consortium. He still further submits that compensation qua loss of estate and funeral

expenses also required to be reassessed and enhanced, more so, keeping in view that the claimant had been left all by herself after the unfortunate demise of her young son on whom she was solely dependent. In support, learned counsel has placed reliance upon the judgments of ***Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr., (2009) 6 SCC 121, National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270 and Magma General Insurance Co. Ltd. vs. Nanu Ram @ Chuhru Ram and others, 2018(4) RCR (Civil) 333.***

Per contra, learned counsel for the Insurance Company while opposing the prayer and submissions made by counsel opposite submits that the compensation awarded by the Tribunal did not warrant any interference and was as per the settled law. He submits that no evidence had been led by the claimant in support of her claim that the deceased was running a dairy farming and earning Rs.50,000/- per month. In the circumstances, learned counsel has urged that the Tribunal had rightly assessed the monthly income of the deceased by treating him as a skilled worker at Rs.10,000/- per month as per the settled law.

Heard learned counsel for the parties and perused the case file.

This Court does not find any merit in the submissions made by the learned counsel for the appellant that the monthly income assessed by the Tribunal in the sum of Rs.10,000/- per month was on the lower side. No evidence was led by the claimant in support of her claim that the deceased was earning Rs.50,000/- per month from dairy farming. The deceased was 30 years of age and hence, this Court also does not find any error in the

multiplier of 17, which has been applied by the Tribunal. However, this Court is of the considered opinion that the compensation awarded required to be reassessed to the limited extent of grant of filial consortium in the sum of Rs.40,000/- as per *Pranay Sethi's case(supra)*. In addition, it has been held by the Hon'ble Supreme Court that the compensation of Rs.15,000/- each for funeral expenses and loss of estate and Rs.40,000/- for filial consortium would be subject to 10% enhancement after every three years. The amount of compensation under the conventional heads stand modified to Rs.16,500/- each for loss of estate & funeral expenses.

Resultantly, the compensation awarded by the Tribunal is reassessed as follows:-

<i>Sr. No.</i>	<i>Head</i>	<i>Amount</i>
1	Monthly income	Rs.10,000/-
2	Annual income 12 x 10,000/-	Rs.1,20,000/-
3	Future prospects (40%)	Rs.48,000/-
4	Total Income	Rs.1,68,000/-
5	Deduction towards personal expenses	Rs.84,000/-
6	Multiplier	17
7	Total dependency	Rs.14,28,000/-
8	Loss of Estate	Rs.16,500/-
9	Transportation and funeral expenses	Rs.16,500/-
10	Filial consortium	Rs.44,000/-
11	Total compensation	Rs.15,05,000/-

The appellant-claimant is therefore, entitled to an enhanced compensation of Rs.47,000/- i.e. (Rs.15,05,000/- (-) Rs.14,58,000/-) along with interest at the rate of 8% per annum from the date of filing of the claim petition till its actual realization.

With the above modifications, the instant appeal stands disposed of.

08.07.2022
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(MANJARI NEHRU KAUL)
JUDGE

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