

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

FAO-2213-2018 (O&M)

Date of decision: 19.01.2023

Shakuntla and others

...Appellants

Versus

Sanjay @ Mota and others

...Respondents

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

Present: Ms. Amrita Nagpal, Advocate for the appellants.

None for respondents No.1 & 2.

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

H.S. MADAAN, J.

Briefly stated facts of the case are that widow Shakuntla, Aman minor, Indu minor daughter, mother Anguri Devi and Kanwar Bhan, father of Rampal, an unfortunate victim of a road side accident had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988, against respondents i.e. Sanjay @ Mota-driver, Sandeep Kumar-owner and Royal Sundram Allianz Insurance Company Ltd., Chandigarh insurer of three wheeler bearing No.HR-67-A-1181 (for short 'the offending vehicle')

After contest, that claim petition was accepted by Motor Accidents Claims Tribunal, Panipat (for short 'the tribunal'), vide award dated 16.08.2017 and compensation of Rs.6,94,740/- was awarded to the claimants with interest @ 7.5% p.a., from the date of filing of petition till

actual realization, the liability to pay this amount being joint and several of respondents No.1 to 3.

However, 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 respondents, however, today only counsel for respondent No.3 is present.

I have heard learned counsel for the appellants and counsel for respondent No.3 besides going through the record.

The Tribunal on analysis of the evidence brought on file by the parties had returned a finding that respondent No.1 Sanjay @ Mota was author of the accident by his rash and negligent driving of the offending vehicle resulting in death of Rampal. It being so, the driver, owner and insurance company of that vehicle were held to be liable to pay compensation payable.

The Tribunal had taken the age of deceased to be 50 years and assessed his monthly income as Rs.5550/-, considering the minimum wages payable in the State of Haryana at the relevant time.

The grouse of the appellants is two fold. Firstly, no addition was made towards future prospects. Secondly, the amount of compensation awarded under conventional heads is on lower side.

Learned counsel for insurance company states that this Court may decide the case in the light of settled judicial legal position on the subject.

In view of the judgment **National Insurance Company**

Limited Versus Pranay Sethi and Ors., 2017(4) RCR(Civil)1009,

when the deceased is in age group of 50 years or more, then addition of 10% is to be made to the income towards future prospects. Doing that, the monthly income of deceased is assessed as 6105/- (5550+555) . Making deduction of 1/4th towards personal and living expenses of the deceased, keeping in view the number of dependent family members, the dependency of the claimants comes out to Rs. 4578.75/- (6105-1526.25) and annual dependency is worked out to Rs.54,945/- (4578.75 X 12)

The Tribunal has correctly used multiplier of 13. Using that multiplier, the total loss of dependency comes out to Rs.7,14,285/-.

In view of judgment **National Insurance Company Limited Versus Pranay Sethi and Ors., 2017(4) RCR(Civil)1009,** although under conventional heads, the claimants are entitled to get Rs.15,000/- on account of loss of estate, Rs.15,000/- towards funeral expenses and Rs.40,000/- for loss of consortium but that amount is to be enhanced by 10% in every three years.

All the claimants are entitled to get compensation under the head loss of consortium in view of judgment **Magma General Insurance Co. Ltd. Vs. Nanu Ram @ Chuhru Ram & Ors., 2018 (4) RCR (Civil) 333,** which comes out to 2,20,000/- (44,000 X 5).

The claimants are further entitled to get Rs.16,500/- each under the head loss of estate and funeral expenses. Thus, the total compensation is worked out to Rs. 9,67,285/-. In that way, the compensation is enhanced by Rs.2,72,545/-. It is clarified that the total compensation awarded now shall be payable with interest @ 7.5% p.a.,

from the date of filing of claim petition till actual realization. The liability of all the respondents to pay this amount being joint and several. The mode and manner of payment and the apportionment amongst the claimants shall remain the same as directed by the tribunal in the original award.

The appeal stands partly allowed.

19.01.2023

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(H.S. MADAAN)

JUDGE

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