

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

FAO No. 3447 of 2016

Date of Decision: October 22 , 2019.

Smt. Rajo APPELLANT (s)

Versus

Kuldeep and others RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Ajay Ghanghas, Advocate
for the appellant.

Mr. Barjinder Singh, Advocate
for respondent No.3.

Mr. Amit Kundra, Advocate
for respondent No.4 – Insurance company

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

This appeal has been filed by the claimant seeking enhancement of compensation awarded to her by the learned Motor Accident Claims Tribunal, Panipat (for short, the 'Tribunal') vide impugned award dated 08.07.2015 on account of death of Yashpal Singh in a motor vehicle accident.

Brief facts necessary for the adjudication of the case are that, the claimant, mother of the deceased, filed a petition under Section 166 of the Motor

Vehicles Act seeking compensation on account of death of her son, Yashpal Singh, who lost his life in a motor vehicle accident which took place on 09.12.2013. FIR was lodged in respect to the incident at Police Station Murthal, District Sonapat against respondent-driver. Deceased-Yashpal Singh, aged 29 years, is pleaded to be working as a driver with M/s Duggal Transport, earning a sum of ₹12,000/- per month. Compensation was thus prayed for.

Learned Tribunal on considering the facts and evidence on record concluded that the accident in question took place due to the rash and negligent driving of truck bearing registration No.HR-56-3186 by respondent No.1-Kuldeep. Learned Tribunal while accepting the deceased to be a professional driver, authorized to drive heavy transport vehicles, assessed his income to be ₹10,000/- per month and awarded a total amount of ₹6,85,000/- to the claimant. Deduction to the extent of 50% was effected. Multiplier of 11 was applied. ₹5,000/- was awarded on account of funeral expenses. ₹10,000/- was awarded on account of litigation expenses.

Learned counsel for the appellant submits that increment on account of future prospects has not been afforded. Compensation under the conventional heads, it is submitted, is also meagre. It is thus prayed that the amount of compensation awarded to the appellant be enhanced accordingly.

Per contra, learned counsel for respondents No.3 and 4 while refuting the abovesaid averments, submit that excessive compensation has already been awarded by the learned Tribunal which does not call for any enhancement. It is submitted that income of the deceased has been wrongly assessed as ₹10,000/- per month, whereas the minimum wage of a highly skilled

labourer in the State of Haryana at the relevant time was about ₹6,000/- per month. Dismissal of the appeal is prayed for.

I have heard learned counsel for the parties and have gone through the record.

There is no dispute regarding death of Yashpal Singh in a motor vehicle accident which took place on 09.12.2013 due to the rash and negligent driving of the offending vehicle bearing registration No.HR-56-3186 by respondent No.1-Kuldeep. Finding of the learned Tribunal in this regard has attained finality. Deceased was, admittedly, 29 years old at the time of the accident as is borne out from the record.

The claimant has pleaded the deceased to be employed as a driver with M/s Duggal Transport, drawing a salary of ₹12,000/- per month. Though no documentary evidence has been produced by the claimant to prove the exact income of the deceased, it is a matter of record that the deceased-Yashpal Singh was driving truck bearing registration No.HR-55G-6972, while transporting goods of his employer to Delhi, at the time of the accident. In this view of the matter, learned Tribunal has rightly assessed income of the deceased to be ₹10,000/- per month.

Increase in income at the rate of 40% on account of future prospects is afforded in terms of the judgment of the Hon'ble Supreme in **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680.**

The matter regarding application of multiplier while assessing the compensation is no longer res integra. The Hon'ble Supreme Court in **Munna Lal Jain v. Vipin Kumar Sharma, (2015) 6 SCC 347** has specifically held that

multiplier is to be applied with reference to the age of the deceased. The deceased in this case was admittedly 29 years old at the time of the accident. Therefore multiplier of 17, instead of 11, is required to be applied in this case.

Deduction to the extent of 50% has been correctly effected. Instead of ₹5,000/- towards funeral expenses, ₹15,000/- is awarded. Additionally, ₹15,000/- is awarded to the appellant on account of loss of estate. The appellant is held entitled to ₹40,000/- on account of loss of filial consortium in terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors., 2018(4) RCR(Civil) 333** as well as decision dated 14.03.2019 of this Court in FAO No.2110 of 2016 (**Shri Ram General Insurance Company Ltd. v. Beant Kaur and others**).

Appellant is, thus, entitled to compensation which is re-worked as under:-

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Income	10,000 per month i.e., 1,20,000 per annum
2.	Total income after addition at the rate of 40% on account of future prospects	1,20,000 + (1,20,000 x 40%) = 1,68,000
3.	Deduction of 50% on account of personal expenses	1,68,000 – (1,68,000 x 1/2) = 84,000
4.	Dependancy after applying a multiplier of 17	(84,000 x 17) = 14,28,000
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of filial consortium	40,000
Grand Total		₹14,98,000/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Claimant shall be

entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of filing of the petition till realization.

Appeal is accordingly disposed of.

October 22 , 2019.
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**(LISA GILL)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No