IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O. No.5094 of 2002(O&M)
Date of Decision: 03.10.2018

Suman Verma and another

.....Appellants.

Versus

Karan Puri and others ..... Respondents.

AND

F.A.O. No. 5813 of 2002(O&M)

M.R.Verma and another .....Appellants.

Versus

Karan Puri and others ..... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.Keshav Gupta, Advocate
for Mr. Kamaljit Singh Bawa, Advocate
for the appellants.

Mr. Vinod Gupta, Advocate
for respondent no.3.

Mr. Ashwani Arora, Advocate
for respondents no.4 and 5 in FAO No. 5094 of 2002

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LISA GILL, J.

This order shall dispose of FAO No. 5094 of 2002 and FAO No. 5813 of 2002 as both the appeals arise from a common award dated 10.09.2002, passed by the learned Motor Accident Claims Tribunal, Chandigarh (for short 'MACT'). For the sake of convenience, facts are being extracted from FAO No. 5094 of 2002.

Appellants-claimants in FAO no. 5094 of 2002, are the wife and son of Narain Kumar Verma (deceased) and appellant-claimants in FAO No. 5813 of 2002, are parents of Narain Kumar Verma (deceased). They seek enhancement of the compensation awarded to them by the learned MACT,

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Chandigarh, vide impugned award dated 10.09.2002, on account of death of said Narain Kumar Verma.

As per the averments in the claim petition under Section 166 of the Motor Vehicle Act, 1988, preferred collectively by the claimants, it is stated that on 15.01.2000, Narain Kumar Verma son of Mool Raj Verma was proceeding to Chandigarh from Barog in a Maruti Car No. CHO1-M-0065, which was being driven by Rajesh Kumar son of D.P.Soni (respondent no.2) in a rash and negligent manner. When the car reached near Kumarhatti, the car fell into a deep gorge of 100 meters, due to which Narain Kumar Verma (deceased), travelling in the said car, died. He was declared brought dead in the Civil Hospital, Solan. FIR No. 10 dated 16.01.2000, under Sections 279, 337, 304-A IPC was registered at Police Station Dharampur in this respect.

Learned Tribunal concluded that the accident in question was caused due to rash and negligent driving of the offending vehicle by respondent no.2-Rajesh Kumar. The said finding of the learned tribunal has attained finality.

Learned tribunal on considering the facts and circumstances of the case awarded a sum of ₹9,10,000/- as compensation on account of death of Narain Kumar Verma. His income was assessed as ₹9224/- per month being a government employee, deduction of 1/3rd was effected, multiplier of 13 was applied keeping in view the age of the deceased. A sum of ₹2000/- was awarded towards funeral expenses and ₹5000/- was awarded towards loss of estate.

Learned counsel for the appellant argues that multiplier of 15 should have been applied instead of 13 as the deceased was 39 years and 3

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months old at the time of the accident. Moreover, increase of 50% is required to be afforded on account of future prospects in view of the judgement of the Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and Ors. 2017(4) R.C.R.(Civil) 1009**. It is further submitted that meagre compensation has been awarded under the conventional heads which should be enhanced.

Learned counsel for the respondents, while refuting the above arguments, submits that compensation has been reasonably assessed by the learned tribunal and there is no scope for any further enhancement. Learned counsel prays for dismissal of the appeals.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

There is no dispute regarding the income of the deceased. In terms of the judgement of the Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and Anr. 2009 (3) R.C.R. (Civil) 77**, multiplier of 15 is to be applied instead of 13 keeping in view the age of the deceased-Narain Kumar Verma i.e. 39 years and 3 months.

There is no merit in the argument raised by learned counsel for the appellants that age of the deceased should be taken to be 40 years. The Hon'ble Supreme Court in case of **Shashikala and others vs. Gangalakshmamma and another, 2015(2) RCR (Civil) 510** held that where the age of the deceased was 45 years, 5 months and 28 days at the time of accident age of the deceased has to be taken as 45 years. Therefore, the age of the deceased in the present case has to be taken as 39 years.

Increase in income on account of future prospects at the rate of

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50% is required to be awarded keeping in view the judgement of the Hon'ble Supreme Court in *Pranay Sethi's* case (Supra). Deduction of 1/3rd as effected by the learned tribunal is maintained. Compensation under the conventional heads is awarded in terms of **Pranay Sethi's** case (Supra) and **Magma General Insurance Company Limited Vs. Nanu Ram @ Chuhru Ram and others, Civil Appeal No. 9581 of 2018, arising out of SLP (civil) 3192 of 2018, decided on 18.09.2018**.

Compensation towards the claimants on account of death of Narain Kumar Verma is thus re-worked as under:-

1.	Total income of deceased	₹9224/- p.m
2.	Deduction of 1/3rd on account of personal expenses	₹9224/– (₹9224*1/3=₹3074/-) = ₹6150/-
3.	Total income after addition of future prospects at the rate of 50%	₹6150/- (₹6150 + ₹3075) i.e. 9225/-
4.	Annual dependency after applying multiplier of 15	₹9225/- x 12 x 15= ₹16,60,500/-
5.	Loss of estate	₹15,000/-
6.	Loss of consortium	₹40,000/-
7.	Loss of filial consortium to parents of the deceased i.e. ₹40,000/- each	₹80,000/-
8.	Parental consortium to children of the deceased	₹80,000/-
	Total Compensation =	**₹18,75,500/-**

Claimants shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of filing of petition till realization. Needless to say the amount, if any, already disbursed to the claimants shall be deducted in both the appeals.

Apportionment of amount of compensation amongst claimants

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shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants, shall enure.

With the abovesaid modification in the amount of compensation, both the appeals are disposed of.

[LISA GILL]
Judge

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

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