IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2023 of 2001 (O&M)
Date of decision:10.12.2018.

Smt. Santo

...Appellant

Versus

Raju and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Sandeep Jasuja, Advocate for the appellant.

Mr. Paul S. Saini, Advocate and
Mr. Vipul Sharma, Advocate for respondent No.3/Insurance Company.

LISA GILL, J.

This appeal has been filed by the claimant seeking enhancement of the compensation awarded to her by the learned Motor Accident Claims Tribunal, Gurgaon (`Tribunal' for short) vide award dated 09.02.2001 on account of death of her son Parshotam in a motor vehicle accident on 14.05.1994.

The claimant, who is mother of the deceased, filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of her son Parshotam due to injuries received in a motor vehicle accident which took place on 14.05.1994. FIR No.394 dated 14.05.1994 was registered under Sections 279 and 304-A IPC against respondent No.1. It was pleaded that deceased at the time of his death was unmarried. He was working as Sofa Maker (Mistri) with National Furniture, Jacubpura, Gurgaon, earning Rs.50/- per day and expecting compassionate appointment as LDC in place of his father. Compensation was thus prayed for.

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Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place due to the rash and negligent driving of the offending vehicle by its driver. There is no dispute regarding the above said finding of the learned Tribunal on this issue, which has attained finality.

Learned Tribunal while concluding the deceased to be 17-1/2 years old and unmarried at the time of his death, assessed his income as Rs.1500/- per month. Deduction of 1/3rd was effected towards personal expenses. Split multiplier was applied by the learned Tribunal. By applying the multiplier of 4, dependency was assessed at Rs.48,000/- (1000x12x4) and by applying the multiplier of 12, dependency was assessed at Rs.72,000/- (500x12x12). Thus, the total dependency arrived at was Rs.1,20,000/-. A sum of Rs.5,000/- was awarded towards funeral expenses. Thus, the claimant was held entitled to total compensation of Rs.1,25,000/- along with interest @ 9% per annum from the date of filing of claim petition till realisation.

Learned counsel for the appellant submits that no increase in income on account of future prospects has been afforded. Multiplier has wrongly been applied. Amount awarded under the conventional heads needs to be enhanced as well. It is thus prayed that this appeal be allowed and compensation awarded be enhanced.

Learned counsel for respondent No.3/Insurance Company refutes the above said arguments while submitting that deduction of 50% instead of 1/3rd should be applied as the deceased was unmarried at the time of his death. It is thus prayed that impugned award be upheld.

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

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It is not in dispute that deceased died due to injuries received in a motor vehicle accident which took place on 14.05.1994 due to the rash and negligent driving of the offending vehicle by respondent No.1. There is no evidence on record to prove the deceased to be earning an income higher than the income assessed by the learned Tribunal at Rs.1500/- per month. There is no dispute that the deceased was about 17-1/2 years old at the time of his death. Therefore, in view of the judgment of Hon'ble the Supreme Court in National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009, 40% increase in income has to be afforded on account of future prospects. Multiplier of 18 has to be applied. Deduction of 50% instead of 1/3rd has to be effected as the deceased was unmarried at the time of his death. In view of the judgment of Hon'ble the Supreme Court in Magma General Insurance Company Ltd. Vs. Nanu Ram alias Chuhru Ram and others, in Civil Appeal No.9581 of 2018 decided on 18.09.2018, Rs.40,000/- is afforded to the appellant towards loss of filial consortium. The appellant is also entitled to Rs.15,000/- each for loss of estate and funeral expenses instead of Rs.5,000/- awarded towards funeral expenses.

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

Sr.No.	***Heads of Claim***	***Rupees***
1.	Income	1500 p.m. i.e., 18,000/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	18000+7200 (18,000x40%) = 25,200/-
3.	Income after deduction of 50% on account of personal expenses	25,200–12,600 (25,200/1) = 12,600/-
4.	Total dependency after applying a multiplier of 18	(12,600 **x**18) =2,26,800/-
5.	Loss of estate	15,000/-

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6.	Funeral expenses	15,000/-
7.	Loss of consortium to appellant @ 40,000/-	40,000/-
Grand Total		2,96,800/-

The amount of compensation already awarded to the appellant, needless to say, shall stand deducted from the amount calculated as above. Appellant shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization.

With the abovesaid modification in the award dated 09.02.2001, present appeal is disposed of.

(LISA GILL)
JUDGE

10.12.2018
Ishwar

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No

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