IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5582 of 2011 (O&M)
Date of decision:25.10.2018.

Vinod Bhalla and another

...Appellants

Versus

Lachhman Singh and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Ms. Jaspreet Kaur, Advocate for
Mr. Nakul Sharma, Advocate for the appellants.

Ms. Reena, Advocate for
Mr. Rajesh Lamba, Advocate for respondents No.1 and 2.

LISA GILL, J.

This appeal has been filed by the claimants seeking enhancement of the compensation awarded to them by the learned Motor Accident Claims Tribunal, Ferozepur (`Tribunal' for short) vide award dated 25.05.2011 on account of death of Sumit Bhalla in a motor vehicle accident on 20.04.2008.

The claimants, who are the parents of the deceased, filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Sumit Bhalla due to injuries received in a motor vehicle accident which took place on 20.04.2008. FIR No.106 dated 20.04.2008 was registered under Sections 279 and 304-A IPC at Police Station DLF PH-II against respondent No.1. It was pleaded that the deceased at the time of his death was employed with M/s Neptune Overseas FZE National Capital Region India. His monthly income was stated to be Rs.25,000/-. He was 23/24 years old at the time of accident. Compensation was thus prayed for.

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The 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 further concluded the deceased to be 23/24 years old at the time of his death and assessed his income as Rs.5000/- per month. After deducting the personal expenses, dependency was assessed as Rs.3500/- per month. Multiplier of 16 was applied. Thus, total dependency was assessed at Rs.6,92,000/-. A sum of Rs.10000/- was awarded towards funeral expenses. Thus, claimants were held entitled to total compensation of Rs.7,02,000/- along with interest @ 7% per annum from the date of filing of claim petition till realisation.

Learned counsel for the appellants submits that income of the deceased as assessed by the learned Tribunal is not in dispute. However, increase in income on account of future prospects should be afforded. Multiplier of 17 instead of 16 should be applied keeping in view age of the deceased. Amount awarded under the conventional heads should also be enhanced. It is thus prayed that this appeal be allowed and compensation awarded be enhanced.

Learned counsel for the Insurance Company has refuted the above said arguments while submitting that the impugned award has been passed correctly and no ground for any enhancement is made out.

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 20.04.2008 due to the rash and negligent driving of the offending vehicle by respondent No.1. Income of the deceased is not in dispute. In view of the guidelines laid down by the Hon'ble 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. Deduction of 50% towards personal expenses has to be effected as the deceased was unmarried. Multiplier of 17 instead of 16 has to be applied keeping in view the age of the deceased. In view of the judgment of the Hon'ble 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/- each has to be afforded towards filial consortium. The claimants are entitled to Rs.15,000/- each for loss of estate and funeral expenses instead of Rs. 10,000/- already afforded towards funeral expenses.

Appellants-claimants are, thus, entitled to compensation, which is re-worked as under:-

Sr.No.	***Heads of Claim***	
1.	Income	5000 p.m. i.e., 60,000/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	60000+24,000 (60,000x40%) = 84,000/-
3.	Income after deduction of 50% on account of personal expenses	84,000–42,000 (84,000/2) = 42,000/-
4.	Total dependency after applying a multiplier of 17	(42,000 **x**17) =7,14,000/-
5.	Loss of estate	15,000/-
6.	Funeral expenses	15,000/-

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7.	Loss of consortium to parents @ Rs.40,000/- each	80,000/-
Grand Total		8,24,000/-

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

Apportionment of amount of compensation amongst claimants 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 award dated 25.05.2011, present appeal is disposed of.

(LISA GILL)
JUDGE

October 25, 2018
Ishwar

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No

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