

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.4222 of 2012 (O&M)
Date of decision:08.10.2018.

Smt. Leela Devi @ Kalawati Devi and others

...Appellants

Versus

Satya Pal and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Ashwani Arora, Advocate for the appellants.

Mr. Jagjit Singh Chatrath, Advocate with
Ms. Sanya Sapra, Advocate for
Mr. Ashwani Talwar, Advocate for respondent No.3/Insurance
Company.

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, Chandigarh ('Tribunal' for short) vide award dated 02.04.2012 on account of death of Sunil Kumar in a motor vehicle accident on 21.05.2009.

The claimants, who are the wife, children and mother of the deceased, filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Sunil Kumar due to injuries received in a motor vehicle accident which took place on 21.05.2009. FIR was registered against respondent No.1. It was pleaded that the deceased at the time of his death was working with Plaza Wires Private Ltd., Baddi. His monthly income was stated to be Rs.8,000/-. Compensation was thus prayed for.

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 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 assessed the age of the deceased as 33 years at the time of his death and assessed the income of the deceased as Rs.5000/- per month. Deduction of 1/4th was effected towards the personal expenses keeping in view the number of dependents. After applying a multiplier of 16, total dependency was assessed at Rs.7,20,000/-. A sum of Rs. 5000/- was awarded towards loss of estate. Another sum of Rs.10,000/- was awarded for funeral expenses besides Rs.5000/- towards loss of consortium. Thus, claimants were held entitled for total compensation of Rs.7,40,000/- along with interest @ 7.5% per annum from the date of filing of claim petition till realisation.

Learned counsel for the appellants argues that income assessed by the learned Tribunal is not in dispute. Increase in income on account of future prospects should however be afforded @ 40% in view of National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009. Deduction of 1/4th has rightly been effected on account of personal expenses. Multiplier of 16 has rightly been applied. Amount awarded under the conventional heads needs to be enhanced as per 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. 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 correctly been passed and no ground for any enhancement is made out. In respect to the compensation afforded under conventional heads, it is submitted that the same can at best be afforded only as per the guidelines in National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009 and not 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

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

Liability of the Insurance Company is not disputed. It is also not in dispute that deceased had died due to injuries received in a motor vehicle accident which took place on 21.05.2009 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. In view of the judgment of the Hon'ble Supreme Court in the case of Magma General Insurance Company (supra), appellant/claimant No.1 is entitled to Rs.40,000/- instead of Rs.5000/- for spousal consortium, appellants/claimants No.2 to 4 are entitled to Rs.40,000/- each for parental consortium and appellant/claimant No.5 is entitled to Rs.40,000/- for filial consortium. There is no ground for denying the said compensation on the basis of the decision of the Hon'ble Supreme Court in the case of Magma General Insurance Company (supra). The claimants are entitled to

Rs.15,000/- each for loss of estate and funeral expenses instead of Rs. 5,000/- and Rs.10,000/- respectively already afforded towards loss of estate and funeral expenses. Deduction of 1/4th towards personal expenses has rightly been effected. Multiplier of 16 has rightly been applied.

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	60,000+24,000 (60,000x40%) = 84,000/-
3.	Income after deduction of 1/4 th on account of personal expenses	84000–21,000 (84,000/4) = 63,000/-
4.	Total dependency after applying a multiplier of 16	(63,000 x16) =10,08,000/-
5.	Loss of estate	15,000/-
6.	Loss of funeral	15,000/-
7.	Loss of consortium to all five claimants @ Rs.40,000/-x5= Rs.2,00,000/-	2,00,000
Grand Total		12,38,000/-

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 enhanced 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 02.04.2012, present appeal is disposed of.

(LISA GILL)
JUDGE

October 08, 2018
Ishwar

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No