IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O. No. 1201 of 2015 (O&M)
Date of Decision: 22.11.2018

Baljit Kaur and others

......Appellants.

Versus

Gurmel Singh and others

...... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.Yashveer Kharb, Advocate
for the appellants.

Mr.Ajay Singla, Advocate
for respondent no.3.

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LISA GILL, J.

Appellant-claimants, seek enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal, Fatehgarh Sahib (for short 'MACT'), vide impugned award dated 10.07.2014, on account of death Manjit Singh.

As per averments in the claim petition under Section 166 of the Motor Vehicles Act, on 12.11.2009, Manjit Singh was going from Rajpura to attend his duties at Coca-Cola Factory, Nabipur on his own motorcycle bearing registration No. PB-11-AJ-8459 (T). Balbir Singh was also going to attend his duty in the abovesaid factory from his village Chamaru on his motorcycle bearing registration no. PB-11-AT-4107 (T). Manjit Singh was 60-79 yards ahead of said Balbir Singh. It was pleaded that traffic was not plying on one side of the road from Sirhind to Rajpura as it was closed due to repairs and all the vehicles were tavelling on one one side of road only. At 06.45.a.m., when they reached near Mc-donald Petrol Pump/Hotel, G.T.Road, in the area of village Patarsi Khurd, the offending truck bearing registration no. PB-10-AB-9439 coming from Sirhind side being driven by respondent no.1 in a rash and negligent manner struck his truck against the motorcycle of Manjit Singh. As a result thereof, Manjit Singh sustained grievous injuries. After arranging an ambulance, Manjit Singh was taken to Civil Hospital, Fatehgarh Sahib, but on the way to Civil Hospital, Fatehgarh Sahib, Manjit Singh succumbed to his injuries near Village Madhopur. FIR No. 99 dated 12.10.2009, under Sections 279, 304-A, 427 IPC, Police Station Mulepur, District Fatehgarh Sahib, was registered against respondent no.1-Gurmel Singh, 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.1-Gurmel Singh. The said finding of the learned tribunal has attained finality.

Learned tribunal awarded a total sum of ₹9,35,000/- along with interest @ 7% per annum from the date of filing of the claim petition till realisation of the amount to the claimants. Income of the deceased was assessed as ₹5000/- per month. Multiplier of 18 was applied by the learned tribunal. A sum of ₹1,00,000/- was awarded on account of loss of consortium and ₹25,000/- was awarded towards funeral expenses.

Learned counsel for the appellants submits that increase of 40% should 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 however submitted that compensation awarded under the conventional heads may be reworked. It is, thus, prayed that compensation awarded to the appellants be enhanced.

Learned counsel for the respondent-Insurance Company, 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 appeal.

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

Learned counsel for the appellants is unable to point out any evidence on record to indicate that the deceased was earning an income higher than what has been assessed by the learned tribunal. Thus, income of the deceased assessed as ₹5000/- per month by the learned tribunal is upheld. However, increase in income on account of future prospects at the rate of 40% is required to be awarded keeping in view the judgement of the Hon'ble Supreme Court in *Pranay Sethi's* case (Supra). Multiplier of 18 has been correctly applied by the learned tribunal. Deduction of 1/ 4^{th} has been correctly applied by the learned tribunal keeping in view the number of dependants/claimants i.e. six. Instead of ₹25,000/- awarded by the learned tribunal for funeral expenses, the claimants are entitled to ₹15,000/- for funeral expenses and another sum of ₹15000/- for loss of estate. Claimant-appellant no.1 in terms of the judgement of Hon'ble Supreme Court in **Magma General Insurance Company Limited Vs. Nanu Ram @ Chuhuru Ram and others, Civil Appeal no. 9581 of 2018, arising out of**

SLP (Civil) No. 3192 of 2018, decided on 18.09.2018.,,is entitled to ₹40,000/- (instead of ₹1 lakh) for loss of consortium. All the other claimants are also entitled to ₹40,000/- each for loss of consortium (filial and parental).

Compensation towards the claimants on account of death of Manjit Singh is thus re-worked as under:-

1.	Total income of deceased	₹5000/- p.m
2.	Deduction of 1/4th on account of personal expenses	₹5000/– (₹5000*1/4=₹1250/-) = ₹3750/-
3.	Total income after addition of future prospects at the rate of 40%	₹3750/- (₹3750+ ₹1500/-) i.e. ₹5250/-
4.	Annual dependency after applying multiplier of 18	₹5250/- x 12 x 18= ₹11,34,000/-
5.	Spousal consortium	₹40,000/-
6.	Funeral expenses	₹15,000/-
7.	Loss of estate	₹15,000/-
8.	Filial consortium i.e. ₹40,000/- each to parents of the deceased	₹80,000/-
9.	Parental consortium to all three children of the deceased @ ₹40,000/-each	₹1,20,000/-
	Total Compensation =	**₹14,04,000/-**

Claimants shall be entitled to interest on the compensation 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 stand deducted.

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 amount of compensation, present appeal is disposed of.

[LISA GILL]
Judge

22.11.2018
s.khan

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.