IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O. No. 2159 of 2014(O&M)
Date of Decision: 10.10.2018

Manisha and others

......Appellants.

Versus

Jagbir Singh and others ...... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: None for the appellants.

Ms. Vandana Malhotra, Advocate for respondent no.2.

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LISA GILL, J.

Appellant-claimants, seeks enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal, Rohtak (for short 'MACT'), vide impugned award dated 26.10.2013 on account of death of deceased-Ajit Singh.

As learned counsel for the appellants had not been appearing in this case, notice was issued to the appellants. However, despite appellants being served, none has appeared on their behalf. There was no representation on their behalf on the last date as well.

Keeping in view the fact that the present is an appeal by the claimants seeking enhancement of the compensation, it is considered appropriate to decide the matter on merits.

As per averments in the claim petition filed under section 166 of the Motor Vehicles Act, on 30.12.2010, Ajit Singh (deceased) along with one Parveen son of Jabir Singh was going to village Matrau (Delhi) from his village Mokhra on motor cycle bearing registration no. DL-45-BT-9497., which was being driven by said Parveen and Ajit Singh was a pillion rider. At about 11.00.a.m., when they reached near Dadri Road bye pass at Jhajjar, a dumper bearing registration no. HR-63-6320 being driven by respondent no.1-Jagbir in a rash and negligent manner and without observing traffic rules was going ahead of their motorcycle. When the said dumper slowed down, the motorcyclist overtook the dumper and reached at the correct side of the road. Driver of the offending vehicle started to drive the dumper rashly and negligently and in a *zig-zag* manner. It struck against the motorcycle of the deceased from behind. Due to the impact of the accident, Ajit Singh along with motorcycle fell down on the road and the offending vehicle crushed the body of the deceased. Ajit Singh was taken to Govt. Hospital, Jhajjar for treatment, where he succumbed to the injuries sustained in the accident. FIR no. 760 dated 17.12.2011, under Sections 279, 304-A IPC, Police Station Jhajjar, was registered in this respect.

Learned Tribunal concluded that Ajit Singh died due to the injuries sustained by him in the accident which occurred on 30.12.2010, due to the rash and negligent driving of the offending vehicle by respondent no.1. The said finding of the learned tribunal has attained finality.

The learned tribunal awarded a total sum of ₹32,71,000/- on account of death of Ajit Singh, which is detailed as under:-

1.	Income (after deduction income tax of 10%)	₹1,90,080/- p.a.
2.	50% future prospects	₹1,90,080 +₹95040/-
3.	1/3 deduction	₹2,95,120/- - ₹95040/-=₹1,90,080/-
4.	Multiplier of 17	₹1,90,080 x 17 = ₹32,31,360/- say ₹32,31,000/-
5.	Loss of consortium	₹20,000/-
6.	Funeral expenses	₹20,000/-
	Total	**₹32,71,000/-**

Appellants no.1 to 3 i.e. the widow and the parents of the deceased were found entitled to compensation and appellant no.4, the brother of the deceased, was held not to be dependent upon the deceased.

I have gone through the file with the able assistance of learned counsel for respondent no.2.

A perusal of the file reflects that income of the deceased has been rightly assessed on the basis of evidence on record. Deduction on account of income tax at a flat rate of 10% has been effected. Learned counsel for respondent no.2 has fairly assisted the Court in this regard. It cannot be denied that ₹1,60,000/- of the income would be exempt and a sum of ₹5120/- is the amount to be deducted as income tax. Thus income of the deceased is assessed as ₹2,06,080/- p.a. Increment at the rate of 50% has been afforded on account of future prospects. Deduction of 1/3 and multiplier of 17 has been correctly applied by the learned tribunal. Finding of the tribunal qua appellant no.4 not being dependent on the deceased is upheld, however he is entitled to ₹40,000/- as loss of consortium being the younger brother of the deceased.

Keeping in view the parameters referred to hereinbefore and in view of the decisions of the Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and Ors. 2017(4) R.C.R.(Civil) 1009** and **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,** compensation towards the claimants on account of death of Ajit Singh is thus re-worked as under:-

1.	Annual Income of the deceased	₹2,11,200/-
2.	Income after deduction of income tax	₹2,11,200/- - ₹5120 =₹2,06,080/-
3.	50 % increment on account of future prospects	₹2,06,080/- + ₹1,03,040/- = ₹3,09,120/-

4.	Income after deduction of 1/3rd on account of personal expenses	₹3,09,120 – (₹3,09,120 x 1/3) = ₹2,06,080
5.	Multiplier of 17	2,06,080/- **x** 17 = 35,03,360/-
6.	Loss of consortium to the widow	₹40,000/-
7.	Filial consortium i.e. ₹40,000/- each to parents of the deceased	₹80,000/-
8.	Loss of consortium to younger brother	₹40,000/-
9.	Loss of funeral expenses	₹15,000/-
10.	Loss of estate	₹15,000/-
	Total Compensation =	**₹36,93,360 /-**

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 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.

Copy of the order be conveyed to the appellants at the address available on record. In case of any grievance, the appellants are at liberty to move an appropriate application within two months of the receipt of a copy of this order.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

[LISA GILL]
Judge

10.10.2018

s.khan

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