IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1776 of 2015 (O&M)
Date of decision:08.10.2018.

Rampal and another

...Appellants

Versus

Ambuj Bajaj and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Ashish Pannu, Advocate for the appellants.

Mr. Saurabh Kapoor, Advocate for
Mr. Ashit Malik, Advocate for respondents No.1 & 2.

Mr. Vinod Gupta, 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, Sonepat (`Tribunal' for short) vide award dated 19.12.2014 on account of death of their son Raj Kumar in a motor vehicle accident on 15.10.2013.

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 their son Raj Kumar due to injuries received in a motor vehicle accident which took place on 15.10.2013. FIR No.302 dated 15.10.2013 was registered under Sections 279 and 304-A IPC at Police Station Kundli against respondent No.1. It was pleaded that the deceased at the time of his death was an agriculturist, besides running a dairy farm. His total monthly income was stated to be Rs.18,000/-. He was 25 years old at the time of accident. 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 25 years at the time of his death and income of the deceased was assessed as Rs.6000/- per month. Deduction of 50% was effected towards the personal expenses as he was a bachelor. After applying a multiplier of 14, total dependency was assessed at Rs.5,04,000/-. Another sum of Rs.25000/- was awarded towards funeral expenses. Thus, appellant No.2 was held entitled for total compensation of Rs.5,29,000/- along with interest @ 7.5% per annum from the date of filing of claim petition till realisation. Claim of appellant No.1 was declined.

Learned counsel for the appellants argues that increase in income on account of future prospects should be afforded @ 40% in view of National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009. Deduction of 50% has rightly been effected on account of personal expenses. Multiplier of 18 instead of 14 should be 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.

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

It is not in dispute that deceased died due to injuries received in a motor vehicle accident which took place on 15.10.2013 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% has rightly been effected on account of personal expenses as the deceased was unmarried. In view 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 to the claimants towards filial consortium. The claimants are entitled to Rs.15,000/- each for loss of estate and funeral expenses (instead of Rs.25,000/- afforded towards funeral expenses).

Compensation to be awarded is thus re-worked as under:-

Sr.No.	***Heads of Claim***	
1.	Income	6000 p.m. i.e., 72,000/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	72000+28,800 (72,000x40%) = 1,00,800/-

3.	Income after deduction of 50% on account of personal expenses	1,00,800–50,400 (1,00,800/2) = 50,400/-
4.	Total dependency after applying a multiplier of 18	(50,400 **x**18) =9,07,200/-
5.	Loss of estate	15,000/-
6.	Loss of funeral	15,000/-
7.	Loss of filial consortium to the claimants @ Rs.40,000/- each	80,000/- each
Grand Total		10,17,200/-

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.

Directions of the Tribunal in respect to manner of disbursement of the compensation amount to the claimants shall enure.

With the abovesaid modification in the award dated 19.12.2014, present appeal is disposed of.

(LISA GILL)
JUDGE

October 08, 2018
Ishwar

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No