IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3932 of 2014 (O&M)
Date of decision:15.10.2018.

Rattan Lal and another

...Appellants

Versus

Naurang and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. M.K. Sood, Advocate for the appellant.

Mr. Rajbir Singh, 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, Faridabad (`Tribunal' for short) vide award dated 08.01.2014 on account of death of Vikas alias Goni in a motor vehicle accident on 10.07.2012.

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 Vikas alias Goni due to injuries received in a motor vehicle accident which took place on 10.07.2012. FIR No.193 dated 10.07.2012 was registered under Sections 279, 304-A and 427 IPC at Police Station Old Faridabad against respondent No.1. It was pleaded that the deceased at the time of his death was working as a Main Technical Assistant with M/s CAT's EYE CCTV Office. His monthly income was stated to be Rs.10,000/-. He was 19 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 concluded the deceased to be 19 years old at the time of his death and assessed his income as Rs.5000/- per month. Deduction of 50% was effected towards the personal expenses as he was a bachelor. After applying a multiplier of 13, total dependency was assessed at Rs.3,90,000/-. A sum of Rs.5000/- each was awarded towards funeral expenses and loss of estate. Thus, claimants were held entitled for total compensation of Rs.4,00,000/- along with interest @ 7.5% 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 @ 40% in view of judgment of Hon'ble Supreme Court in National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009. Multiplier of 18 instead of 13 should be applied keeping in view age of the deceased. 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 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.

It is not in dispute that deceased died due to injuries received in a motor vehicle accident which took place on 10.07.2012 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 rightly been effected as the deceased was unmarried. Multiplier of 18 instead of 13 has to be applied keeping in view the age of the deceased. 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 towards filial consortium. The claimants are entitled to Rs.15,000/- each for loss of estate and funeral expenses instead of Rs. 5,000/- each already afforded towards funeral expenses and loss of estate.

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 18	(42,000 **x**18) =7,56,000/-

5.	Loss of estate	15,000/-
6.	Loss of funeral	15,000/-
7.	Loss of consortium to parents @ Rs.40,000/- each	80,000/-
	Grand Total	8,66,000/-

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 08.01.2014, present appeal is disposed of.

(LISA GILL)
JUDGE

October 15, 2018
Ishwar

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No