

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.5084 of 2014 (O&M)

Date of decision:20.11.2018.

Smt. Soni and another

...Appellants

Versus

Ram Mehar and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Gaurav Sethi, Advocate for the appellants.

Mr. Inderjit Singh, Advocate for respondent No.1.

Mr. Sanjeev Ghai, Advocate for respondents No.2 & 3.

LISA GILL, J.

CM No.14413-CII of 2014

Prayer in the application is for permission to make good deficiency in court fee. Deficient court fee stands deposited though after the stipulated time.

In view of the facts and circumstances of the case, time to affix the same is extended till then.

Application is disposed of.

CM No.14414-CII of 2014

Heard.

For the reasons mentioned in the application and the arguments addressed, delay of 79 days in filing of the appeal is condoned.

Application is allowed.

FAO No.5084 of 2014

This appeal has been filed by the claimants seeking enhancement of the compensation awarded to them by the learned Motor Accident Claims Tribunal, Ambala ('Tribunal' for short) vide award dated 05.07.2013 on account of death of their son Vipin in a motor vehicle accident

on 10.08.2011.

The claimants, who are parents of the deceased, filed a petition under Section 166 of the Motor Vehicles Act, seeking compensation on account of death of their son Vipin due to injuries received in a motor vehicle accident which took place on 10.08.2011. FIR No.416 dated 10.08.2011 was registered under Sections 279 and 304-A IPC at Police Station Barara against respondent No.1. It was pleaded that the deceased at the time of his death was doing the labour work, earning Rs.6000/- per month. He was 19 years old and unmarried 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 the 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 personal expenses as deceased was unmarried. Multiplier of 15 was applied. Thus, total dependency was assessed at Rs.4,50,000/- (2500x12x15). A sum of Rs.20,000/- was awarded on account of transportation, funeral and last rites. Thus, claimants were held entitled to a total compensation of Rs.4,70,000/- along with interest @ 7.5% per annum from the date of filing of claim petition till realisation.

Learned counsel for the appellants submits that meagre compensation has been awarded, though he does not dispute the income of the deceased as assessed by the learned Tribunal. Moreover, no increment has been afforded on account of future prospects. Multiplier has wrongly been applied by the learned Tribunal keeping in view the age of claimant

No.1. It is thus prayed that this appeal be allowed and compensation awarded be enhanced.

Learned counsel for the respondents have 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 Vipin lost his life due to injuries received in a motor vehicle accident which took place on 10.08.2011 due to the rash and negligent driving of the offending vehicle by respondent No.1. He was 19 years old at that time. There is no dispute regarding the income of the deceased as assessed by the learned Tribunal at Rs.5000/- per month. Admittedly, no appeal has been filed by the Chandigarh Transportation Undertaking or any other respondent. In view of the judgment of Hon'ble the Supreme Court passed 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. The Hon'ble Supreme Court in Munna Lal Jain v. Vipin Kumar Sharma, (2015) 6 SCC 347 has specifically held that the multiplier is to be applied with reference to the age of the deceased. The deceased was admittedly 19 years old at the time of the accident. Therefore, multiplier of 18 instead of 15 is required to be applied. In view of the judgment of Hon'ble the Supreme Court passed 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, appellants are entitled to Rs.40,000/- each on account of loss of filial consortium. The appellants are entitled to Rs.15,000/- each for loss of estate and funeral

expenses instead of Rs. 20,000/- afforded by the learned Tribunal towards transportation, funeral expenses and last rites expenses.

Appellants-claimants are, thus, entitled to compensation, which is re-worked as under:-

Sr.No.	Heads of Claim	Rupees
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 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 x18) =7,56,000/-
5.	Loss of estate	15,000/-
6.	Funeral expenses	15,000/-
7.	Loss of consortium to the appellants @ 40,000/- (40,000x2)=80,000/-	80,000/-
Grand Total		Rs.8,66,000/-

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above. Apportionment and disbursement of the compensation shall be as per directions of the learned Tribunal in award dated 05.07.2013. Appellants shall be entitled to interest at the rate of 7.5% per annum on the entire amount from the date of filing of the petition till realization.

With the abovesaid modification in the award dated 05.07.2013, present appeal is disposed of.

(LISA GILL)
JUDGE

20.11.2018
Ishwar

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