IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 6007 of 2013 (O&M)
Date of decision : October 31, 2018

Lila Devi and others .....Appellants

Versus

Rakesh Kumar and others ....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Ram Kumar Saini, Advocate for the appellants.

Mr. Abhinav Gupta, Advocate for respondent No. 3.

***

LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as the 'Tribunal') on account of death of Krishan Lal vide award dated 04.03.2013.

Brief facts necessary for adjudication of the case are that the claimants i.e. widow, children and mother of the deceased filed a petition under Sections 166, 140, 141 of the Motor Vehicles Act seeking compensation on account of death of Krishan Lal in a motor vehicle accident caused due to driving of the offending vehicle car bearing registration No. HR-07K-3644 by respondent No.1 in a rash and negligent manner. It was averred that Krishan Lal was on the way from village Rattangarh to Sirsala on a motorcycle bearing registration No. HR-07P-2925. When he reached in the area of Sirsala at Rattangarh-Sirsala road, the offending car bearing registration No. HR-07K-3644 came from opposite side and hit the motorcycle of Krishan Lal. As a result thereof he fell down and suffered serious injuries. He was taken to various hospitals for treatment but he ultimately succumbed to his injuries on 14.04.2011. The deceased, aged 47 years at the time of the accident was an agriculturist, stated to be earning ₹15,000/- per month.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place on 27.03.2011 due to rash and negligent driving of the offending car bearing registration No. HR-07K-3644 by respondent No. 1. Learned Tribunal awarded a sum of ₹12,06,600/- with interest at the rate of 7.5% per annum from the date of filing of the claim petition till date of actual realisation of the award. Income of the deceased was assessed as ₹10,000/- per month. Deduction of 1/4th was effected, keeping in view the number of dependants. Multiplier of 13 was applied as the deceased was 47 years old at that time. Additionally, a sum of ₹1,00,000/- on account of loss of consortium was awarded and a sum of ₹10,000/- on account of transportation of dead body, funeral expenses and last rites was afforded. A sum of ₹16,592/- was also afforded as medical expenses.

Aggrieved of the quantum of compensation, claimants have filed this appeal.

Learned counsel for the appellants submits that there is no dispute regarding income of the deceased to be ₹10,000/- per month as assessed by the learned Tribunal, however, in terms of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, increment on account of future prospects at the rate of 25% should be afforded. It is further submitted that though multiplier of 13 has been correctly applied and deduction of 1/4th has been correctly effected, compensation under the conventional heads is meagre. The amount spent on medical expenses was not awarded despite specific evidence on record. It is, thus, prayed that compensation awarded to the claimants be reworked accordingly.

Learned counsel for the respondent - insurance company while refuting the arguments raised by learned counsel for the appellants submits that adequate compensation has been awarded by the learned Tribunal which calls for no further enhancement. It is submitted that the compensation has been rightly assessed, thus, impugned award dated 04.03.2013 be upheld.

Heard learned counsel for the parties.

There is no dispute that Krishan Lal lost his life in a motor vehicle accident, which took place on 27.03.2011 caused due to the rash and negligent driving of car bearing registration No. HR-07K-3644 by respondent No.1. Finding of the learned Tribunal on this issue has attained finality. It is also not disputed that the deceased was 47 years old at the time of the accident. There is no dispute regarding the liability of the insurance company.

Income of the deceased has been correctly assessed as ₹10,000/- per month by the learned Tribunal. In view of the guidelines of the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), increase on account of future prospects at the rate of 25% (₹2500/-) has to be afforded (deceased being 47 years old at the time of accident), which takes the income of the deceased to ₹12,500/- per month. In view of the guidelines laid down by the Hon'ble Supreme Court in case of ***Smt. Sarla Verma and others Versus Delhi Transport Corporation and another*** 2009 (3) RCR

(Civil) 77, deduction of 1/4th is to be applied as number of dependants is four (4), thereby rendering income of the deceased to be ₹9,375/-(12500-3125). Applying a multiplier of 13, dependancy of the claimants is, therefore, assessed as ₹14,62,500/- (₹9375 x12x13). The claimants are also entitled to ₹15,000/- (instead of ₹10,000) each for funeral expenses and loss of estate besides the claimant widow is entitled to ₹40,000/- on account of loss of consortium. In terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Limited versus Nanu Ram Alias Chuhru Ram and others** (Civil Appeal No. 9581 of 2018), appellants No. 2 and 3 i.e. children of the deceased are entitled to ₹40,000/- each on account of loss of parental consortium and appellant No. 4 to ₹40,000/- on account of loss of filial consortium.

Perusal of the record reveals that after the accident which took place on 27.03.2011, the deceased was first taken to Aggarwal Hospital, Kurukshetra. Thereafter, he was referred to PGI, Chandigarh. He was then shifted to Fortis Hospital, Mohali after a few hours on 28.03.2011. He remained admitted at Fortis Hospital, Mohali till 12.04.2011. He was operated upon by Dr. V.S. Khosla, Neuro Surgeon at Fortis Hospital, Mohali. The deceased Krishan Lal was shifted to Jindal Hospital, Yamuna Nagar on 12.04.2011 but he breathed his last on 14.04.2011 at Jindal Hospital, Yamuna Nagar itself.

PW3 Gaurav Sharma, Assistant Supervisor, Fortis Hospital, Mohali has proved Ex. P7 i.e. bill amounting to ₹5,47,874/- for the total expenses incurred on the treatment of the deceased during his stay at Fortis Hospital, Mohali. The said bill has been duly counter signed by Dr.V.K. Khosla, Director Neuro Surgery, Fortis Hospital, Mohali as well as Dr.

Ankush Mehta, Deputy Medical Superintendent, Fortis Hospital, Mohali. This evidence has been wrongly ignored by the learned Tribunal.

In this view of the matter, the claimant is entitled to a sum of ₹5,47,874/- in addition to a sum of ₹16,592/- i.e. expenses incurred on medical treatment incurred at Jindal Hospital, Jagadhri (Exs. P2 to P4).

Claimants are, thus, entitled to total compensation of ₹22,16,966/- detailed as under:-

Loss of dependency (₹9375 x12x13)	₹14,62,500/-
Loss of spousal consortium	₹40,000/-
Loss of parental consortium (40,000x2)	₹80,000/-
Loss of filial consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Medical expenses	₹5,64,466/-
Total	₹22,16,966/-

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 amount of compensation, present appeal is disposed of.

(Lisa Gill)
Judge

October 31, 2018
rts

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