

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.5610 of 2015 (O&M)
Date of decision:11.10.2018.

Reena and others

...Appellants

Versus

Surender Singh and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Jai Singh Yadav, Advocate for the appellants.

Mr. Paul S. Saini, Advocate and
Mr. Vipul Sharma, 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, Rewari ('Tribunal' for short) vide award dated 16.05.2015 on account of death of Naveen in a motor vehicle accident on 06.09.2013.

The claimants, who are the wife, son and parents of the deceased, filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Naveen due to injuries received in a motor vehicle accident which took place on 06.09.2013. FIR No.218 dated 07.09.2013 was registered under Sections 279, 304-A and 337 IPC at Police Station Khol against respondent No.1. It was pleaded that the deceased at the time of his death was working as a conductor besides doing agriculture work. His total monthly income was stated to be Rs.23,000/-

(15000+8000). He was 23 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 23 years at the time of his death and his income as Rs.4800/- per month. Deduction of 1/4th was effected towards the personal expenses keeping in view the number of dependents. After applying a multiplier of 18, total dependency was assessed at Rs.7,77,600/-. Another sum of Rs.30,000/- was awarded towards loss of consortium besides Rs.20,000/- towards transportation, funeral and last rites expenses and Rs.20,000/- towards loss of love and affection. Thus, claimants were held entitled for total compensation of Rs.8,47,600/- along with interest @ 7.5% per annum from the date of filing of claim petition till realisation.

Learned counsel for the appellants argues that income of the deceased has wrongly been assessed at Rs.4800/- per month by the learned Tribunal as minimum wages in the State of Haryana at the time of accident were Rs.5341/-. Increase in income on account of future prospects should be afforded @ 40% in view of the judgment of Hon'ble Supreme in National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009. Deduction of 1/3rd instead of 1/4th should be effected towards personal expenses. 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 by the learned Tribunal 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 06.09.2013 due to the rash and negligent driving of the offending vehicle by respondent No.1. Income of the deceased who was stated to be working as a Conductor has wrongly been assessed at Rs.4800/- per month by the learned Tribunal as minimum wages of even a labourer in the States of Haryana, at the time of accident were Rs.5341/-. Therefore, it is considered just and appropriate to assess the income of the deceased as Rs.5400/-. 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 1/3rd instead of 1/4th has to be effected. Multiplier of 18 has rightly been applied. Compensation awarded under conventional heads needs to be enhanced as well. In view of 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, appellant No.1 is entitled to Rs.40,000/- instead of Rs.30,000/- towards spousal consortium, appellant No.2 is entitled to Rs.40,000/- towards parental consortium and appellants

No.3 and 4 are also entitled to Rs.40,000/- each towards filial consortium. The claimants are entitled to Rs.15,000/- each for loss of estate and funeral expenses instead of Rs.20,000/- already afforded towards transportation, funeral and last rites expenses.

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

Sr.No.	Heads of Claim	
1.	Income	5400 p.m. i.e., 64,800/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	64,800+25,920 (64,800x40%) = 90,720/-
3.	Income after deduction of 1/3rd on account of personal expenses	90,720–30,240 (90,720/3) = 60,480/-
4.	Total dependency after applying a multiplier of 18	(60,480 x18) =10,88,640/-
5.	Loss of estate	15,000/-
6.	Loss of funeral	15,000/-
7.	Loss of consortium to all four appellants @ Rs.40,000/- each 40,000X4=1,60,000/-	1,60,000/-
Grand Total		12,78,640/-

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 16.05.2015, present appeal is disposed of.

(LISA GILL)
JUDGE

October 11, 2018
Ishwar

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No