IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5977 of 2015 (O&M)
Date of decision:03.10.2018.

Vinod Kumar and another

...Appellants

Versus

Malkhan Singh and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Manoj Kumar Taya, Advocate for the appellants.

Ms. Vandana Malhotra, Advocate with
Ms. Monika Jangra, Advocate for respondent No.3/Insurance Company.

LISA GILL, J.

CM No.18833-CII of 2015

For the reasons mentioned in the application and the arguments addressed, delay of 49 days in filing of the appeal is condoned.

Application is allowed.

FAO No.5977 of 2015

This appeal has been filed by the claimants seeking enhancement of the compensation awarded to them by the learned Motor Accident Claims Tribunal, Kaithal (`Tribunal' for short) vide award dated 07.04.2015 on account of death of their daughter namely Ritu in a motor vehicle accident on 06.09.2013.

The claimants, who are the parents of the deceased, filed a petition under Sections 166 and 140 of the Motor Vehicles Act (for short the `Act') seeking compensation on account of death of their daughter Ritu in a motor vehicle accident which took place on 06.09.2013. FIR No.123 dated

06.09.2013 was registered under Sections 279, 337 and 338 IPC at Police Station Rajound against respondent No.1. Deceased remained hospitalized w.e.f. 07.09.2013 to 03.04.2014 and ultimately succumbed to her injuries on 03.04.2014. It was pleaded that the deceased at the time of her death was a student of JBT 1st year. She was unmarried at that time. 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 assessed the income of the deceased as Rs.7500/- per month. Deduction of 50% was effected towards the personal expenses as she was unmarried. Multiplier of 15 was applied by considering the age of mother of the deceased i.e. 39 years and total dependency was assessed at Rs.6,75,000/-. A sum of Rs.20,000/- was awarded towards funeral expenses. Another sum of Rs.1,00,000/- was awarded towards loss of love and affection. Deceased remained hospitalized from 07.09.2013 to 03.04.2014. The claimants were afforded a sum of Rs.1,25,703/- towards the amount incurred on the treatment of the deceased. A sum of Rs.42,000/- was afforded towards diet etc. Another sum of Rs.28,000/- was awarded towards attendant charges and a sum of Rs.30,000/- was afforded towards transportation. Thus, claimants were held entitled for total compensation of Rs.10,20,703/- along with interest @ 7.5% per annum from the date of filing of claim petition till realisation.

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. Multiplier of 18 instead of 15 should be applied. A meagre amount of Rs.30,000/- towards transportation was awarded by the learned Tribunal though the bills Ex.E1 to E27 amounting to Rs.1,86,400/- were duly proved on record. Learned counsel, however, agrees that instead of Rs.1,00,000/- awarded to the claimants for loss of love and affection, a sum of Rs.40,000/- each be awarded for loss of filial consortium in terms 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. 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 had 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 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. Multiplier of 18 instead of 15 has to be applied. 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, Rs.40,000/- each has to be afforded towards filial consortium instead of Rs.1,00,000/- already afforded towards loss of love and affection. The claimants are entitled to Rs.15,000/- each for loss of estate and funeral expenses instead of Rs.20,000/- afforded towards funeral expenses. Deduction of 50% towards personal expenses has rightly been effected as the deceased was unmarried. An amount of Rs.1,25,703/- afforded by the learned Tribunal towards the expenses incurred on medical treatment of the deceased is maintained. The bills Ex.E1 to E27 on account of transportation were duly proved on record by the claimants. Therefore, an amount of Rs.1,86,400/- the expenditure whereof is duly proved, has to be afforded instead of Rs.30,000/-

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

Sr.No.	***Heads of Claim***	
1.	Income	7500 p.m. i.e., 90,000/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	90,000+36,000 (90,000x40%) = 1,26,000/-
3.	Income after deduction of 50% on account of personal expenses	1,26,000–63,000 (1,26,000/2) = 63,000/-
4.	Total dependency after applying a multiplier of 18	(63,000 **x**18) =11,34,000/-
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/-
8.	Medical expenses	1,25,703/-

9.	Transportation	1,86,400/-
10.	Diet expenses	42,000/-
11.	Attendant charges	28,000/-
Grand Total		16,26,103/-

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 07.04.2015, present appeal is disposed of.

(LISA GILL)
JUDGE

October 03, 2018
Ishwar

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No