

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO-4966-2016 (O&M)
Date of Decision : 26.10.2018

Lalit Kumar and another

..... Appellants

Versus

Kulwinder Singh and others

.... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr. Vikram Bali, Advocate
for the appellants.

Mr. Abhimanyu Kalsy, Advocate for
Mr. Ankur Gupta, Advocate
for the respondent No.3.

AJAY TEWARI, J. (ORAL)

This appeal has been filed for enhancement of compensation and for modifying the award dated 20.10.2015 awarding compensation of Rs.6,97,000/- alongwith interest @ 7% p.a. on account of death of Sushma Rani in a motor vehicular accident which took place on 04.09.2014.

Since very limited issue of quantum of compensation has been raised in this appeal further detailed reference to the facts would not be required.

Counsel for the claimants-appellants has argued that the Tribunal has erred in taking the contribution of Rs.4000/- p.m. whereas the

Hon'ble Supreme Court in **Lata Wadhwa and others v. State of Bihar and others** reported as 2001(4) RCR(Civil) 673 (where the accident had taken place in 1989) had evaluated the contribution of a house wife at Rs.3000/-per month. In the circumstances, the contribution cannot be less than Rs.11,000/- p.m. in the present case. I find this to be indeed so. Consequently, I fix the contribution at Rs.11,000/- p.m. However, in view of the judgment passed by this Court in **FAO No.1492 of 2018, titled as Ram Mehar and others vs. Bhupinder and others, decided on 29.08.2018** there can neither be addition of future prospects since its a case of notional income nor can there be deduction.

Counsel for the appellants has argued that only an amount of Rs.25,000/- has been paid under the conventional heads and states that an amount of Rs.45,000/- more has to be awarded in view of the judgment of the Supreme Court passed in **National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009**. Counsel for the respondent No.3 has very fairly accepted this argument.

Counsel for the appellants has further argued that as per the judgment of the Supreme Court in **Magma General Insurance Company Ltd., Vs. Nanu Ram @ Chuhru Ram & ors., Civil Appeal No.9581 of 2018 arising out of SLP (Civil) No.3192 of 2018, decided on 18.09.2018**, appellant No.2 is also entitled for filial consortium of Rs.40,000/-. Counsel for the respondent No.3 has very fairly accepted this argument as well.

Consequently, I award an amount of Rs.45,000/- more under the conventional heads and Rs.40,000/- more towards filial consortium to the appellant No.2.

Counsel for the appellants has further argued that the interest @ 7% is on the lower side as per the judgment of the Supreme Court in Magma General Insurance Company Ltd.'s case (supra). I find this to be indeed so. Consequently, I direct that the entire compensation amount be given alongwith interest @ 12% p.a. from the date of filing of the claim petition till the date of realization.

The Tribunal is directed to put the share of appellant No.1 in a fixed deposit for two years. Of course, the share of the appellant No.2 would also be put in a fixed deposit till the time she attain the age of 21 years. Both the appellants will not be entitled to any interest accrued thereon till its maturity. Rest of the award shall remain unchanged.

The appeal stands disposed of in the above terms.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

October 26, 2018
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(AJAY TEWARI)
JUDGE

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