

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.6284 of 2015 (O&M)
Date of decision:15.10.2018.

Angoori and others

...Appellants

Versus

Sarjeet Singh and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Devender Arya, Advocate for the appellants.

Mr. Ram Kumar Saini, Advocate for
Ms. Sheenu, 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, Narnaul ('Tribunal' for short) vide award dated 29.05.2015 on account of death of Bhoop Singh in a motor vehicle accident on 07.12.2013.

The claimants, who are the parents and brothers of the deceased, filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Bhoop Singh due to injuries received in a motor vehicle accident which took place on 07.12.2013. FIR No.343 dated 09.12.2013 was registered under Sections 279 and 304-A IPC at Police Station Rai against respondent No.1. It was pleaded that the deceased at the time of his death was a conductor. His monthly income was stated to be Rs.13,000/-. 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 concluded the deceased to be 30 years old at the time of his death and assessed his income as Rs.6760/- per month i.e. equivalent to the minimum monthly wages fixed for the year 2013-2014 in the State of Haryana. 50% increment in income was afforded on account of future prospects. Thus, total income of the deceased was assessed as Rs.10,140/- per month. Deduction of 50% was effected towards the personal expenses as he was a bachelor. After applying a multiplier of 14, total dependency was assessed at Rs.8,51,760/-. Another sum of Rs.25000/- was awarded towards funeral expenses besides Rs.10,000/- towards transportation. A sum of Rs.50,000/- each was awarded to claimants No.1 and 2 towards loss of love and affection. Thus, said claimants were held entitled for total compensation of Rs.9,86,760/- along with interest @ 9% per annum from the date of filing of claim petition till realisation.

Learned counsel for the appellants submits that there is no objection in case the compensation afforded to the claimants is re-worked in view of the judgments of Hon'ble Supreme Court in National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009 and 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 further submitted that multiplier of 17 instead of 14 should be applied keeping in view the age of the deceased. It is thus prayed that this appeal be allowed and compensation awarded be enhanced accordingly.

Learned counsel for the Insurance Company has 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 deceased died due to injuries received in a motor vehicle accident which took place on 07.12.2013 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 instead of 50% has to be afforded on account of future prospects. 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, appellants No.1 and 2 are entitled to Rs.40,000/- each towards filial consortium. They are entitled to Rs.15,000/- each for loss of estate and funeral expenses instead of Rs.25,000/- already afforded towards funeral expenses. A sum of Rs.10,000/- awarded for transportation by the learned Tribunal is maintained. Deduction of 50% towards personal expenses has rightly been effected as the deceased was unmarried. Multiplier of 17 instead of 14 has to be applied keeping in view the age of the deceased.

Appellants No.1 and 2 are, thus, entitled to compensation, which is re-worked as under:-

Sr.No.	Heads of Claim	
1.	Income	6760 p.m. i.e., 81,120/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	81,120+32,448 (81,120x40%) = 1,13,568/-
3.	Income after deduction of 50% on account of personal expenses	1,13,568–56,784 (1,13,568/2) = 56,784/-

4.	Total dependency after applying a multiplier of 17	(56,784 x17) =9,65,328/-
5.	Loss of estate	15,000/-
6.	Loss of funeral	15,000/-
7.	Transportation	10,000/-
8.	Loss of consortium to appellant No.1 and 2 appellants @ Rs.40,000/- each 40,000X2= 80,000/-	80,000/-
Grand Total		10,85,328/-

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 29.05.2015, present appeal is disposed of.

(LISA GILL)
JUDGE

October 15, 2018
Ishwar

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No