

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No. 5987 of 2016 (O&M)

Date of decision : November 21, 2018

Smt. Tila Kumari Giri

.....Appellant

Versus

Mehboob Ali and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Rishav Jain, Advocate
for the appellant.

Mr. L.S. Sidhu, Advocate
for respondent No. 2.

Mr. Harsh Aggarwal, Advocate
for respondent No. 3.

LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal, Mansa (hereinafter referred to as the 'Tribunal') on account of death of Basant Kavar vide award dated 07.05.2015.

Brief facts necessary for adjudication of the case are that the claimant i.e. mother of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Basant Kavar on 21.06.2013 in a motor vehicle accident caused due to driving of the offending vehicle motor cycle bearing registration No.PB-31-K-8308 by respondent No.1 in a rash and negligent manner. It was averred that Basant Kavar (since deceased) was going towards Tirwaini Mandir, Mansa for some work. When he reached near Tirwaini Mandir, Bara Hattan Chowk, offending vehicle motor cycle bearing registration No.PB-31-K-8308 struck against Basant Kavar. As a result thereof, he fell on the road and received

multiple grievous injuries on his head, abdomen and other parts of his body. He was taken to Civil Hospital, Mansa, where he succumbed to his injuries. The deceased, aged 47 years at the time of the accident was stated to be earning a sum of ₹22,000/- to ₹23,000/- per month while working as a waiter.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place on 21.06.2013 due to rash and negligent driving of the offending motor cycle bearing registration No. PB-31-K-8308 by respondent No. 1. Learned Tribunal awarded a sum of ₹5,18,000/- with interest at the rate of 6% 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 ₹6,000/- per month. Deduction of 50% was effected as he was a bachelor. Multiplier of 13 was applied as the deceased was 47 years old at that time. Additionally, a sum of ₹30,000/- on account of loss of love and affection besides a sum of ₹20,000/- for transportation and last rites was afforded.

Aggrieved of the quantum of compensation, claimant has filed this appeal.

Learned counsel for the appellant submits that there is no dispute regarding the income of the deceased assessed as ₹6,000/- per month 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, compensation under the conventional heads is meagre. It is, thus, prayed

that compensation awarded to the claimant be reworked accordingly.

Learned counsel for the respondent - insurance company while refuting the arguments raised by learned counsel for the appellant 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 07.05.2015 be upheld.

Heard learned counsel for the parties.

There is no dispute that Basant Kavar lost his life in a motor vehicle accident, which took place on 21.06.2013 caused due to the rash and negligent driving of motor cycle bearing registration No. PB-31-K-8308 driven 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 income of the deceased to be ₹6,000/- per month as assessed 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% (₹1500/-) has to be afforded, as the deceased was 47 years old at the time of accident, which takes income of the deceased to ₹7500/- 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 50% is to be applied as the deceased was a bachelor, thereby rendering income of the deceased to be ₹3750/-(7500-3750). Applying a multiplier of 13, dependancy of the claimant is, therefore, assessed as ₹5,85,000/- (₹3750x12x13). The claimant is also entitled to a

sum of ₹15,000/- each for funeral expenses and loss of estate. 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), appellant i.e. the mother of the deceased is entitled to ₹40,000/- on account of loss of filial consortium. Claimant is, thus, entitled to total compensation of ₹6,55,000/- detailed as under:-

Loss of dependency(₹3750x12x13)	₹5,85,000/-
Loss of filial consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹6,55,000/-

The amount of compensation already awarded to the appellant, needless to say, shall stand deducted from the amount calculated as above. Appellant 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.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

November 21, 2018
rts

(Lisa Gill)
Judge

Whether speaking/reasoned :
Whether reportable

:
:

Yes/No
Yes/No