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

**FAO No. 7102 of 2015 (O&M)**
Date of decision : December 14, 2018

Poonam and others .....Appellants

Versus

Anil Kumar and another ....Respondent

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL**

Present: Mr. Ajit Kumar Sharma, Advocate for
Mr. Ram Darshan Yadav, Advocate
for the appellants.

Mr. Vinod Chaudhri, Advocate
for respondent No. 2.

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**LISA GILL, J.**

Present appeal has been filed by the claimants for enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal, Rewari (hereinafter referred to as the 'Tribunal') on account of death of Rakesh Kumar vide award dated 02.03.2015.

Brief facts necessary for adjudication of the case are that the claimants i.e. widow, children and parents of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Rakesh Kumar on 16.02.2013 in a motor vehicle accident caused due to driving of the offending vehicle Maruti van bearing registration No. HR-26R-0350 by respondent No.1 in a rash and negligent manner. It was averred that on 16.02.2013 Rakesh Kumar was going home on a motorcycle bearing registration No. HR-36N-7245. When he reached near village Kakodia, offending vehicle Maruti van bearing registration No.

HR-26R-0350 struck against the motorcycle of Rakesh Kumar. As a result thereof, he dashed against a kikkar tree and fell from the motorcycle, consequently receiving multiple injuries which proved fatal. He was removed to hospital but succumbed to his injuries on the way. The deceased, aged 25 years at the time of the accident, was making sweets (Halwai) and a milk supplier, stated to be earning a sum of ₹30,000/- per month.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place on 16.02.2013 due to rash and negligent driving of the offending Maruti van bearing registration No. HR-26R-0350 by respondent No. 1. Learned Tribunal awarded a sum of ₹13,26,400/- with interest at the rate of 7% 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 ₹7,200/- per month. Deduction of 1/4th was effected, keeping in view the number of dependants. Multiplier of 18 was applied as the deceased was 25 years old at that time. Additionally, a sum of ₹1,00,000/- on account of loss of consortium was awarded and a sum of ₹25,000/- on account of loss of love and affection besides a sum of ₹25,000/- on account of funeral expenses.

Aggrieved of the quantum of compensation, claimants have filed this appeal.

Learned counsel for the appellants submits that there is no dispute regarding income of the deceased assessed as ₹7,200/- per month by the learned Tribunal, however, in terms of 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 40% should be afforded. It is submitted that though multiplier of 18 has been correctly applied, compensation under the conventional heads is meagre. It is, thus, prayed that compensation awarded to the claimants be reworked accordingly.

Learned counsel for the respondent - insurance company while refuting the arguments raised by learned counsel for the appellants submits that adequate compensation has been awarded by the learned Tribunal which calls for no further enhancement. Thus, impugned award dated 02.03.2015 be upheld.

I have heard learned counsel for the parties and have gone through the available file.

There is no dispute that the deceased was 25 years old at the time of his death, which was caused due to injuries suffered by him in the accident which took place on 16.02.2013. Learned Tribunal has concluded that the accident took place due to rash and negligent driving of the offending vehicle by respondent No.1. Finding of the learned Tribunal on this issue has attained finality.

No dispute has been raised regarding income of the deceased as assessed by the learned Tribunal as ₹7,200/- per month. Income of the deceased, as assessed by the learned Tribunal i.e. ₹7,200/- per month is thus upheld. 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 40% (₹2880/-) has to be afforded, as the deceased was 25 years old at the time of accident, which takes income of the deceased to ₹10,080/- 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 1/4th is to be applied as number of dependants is five (5), thereby rendering income of the deceased to be ₹7560/-(10,080-2520). Applying a multiplier of 18, dependancy of the claimants is, therefore, assessed as ₹16,32,960/- (₹7560x12x18). The claimants are also entitled to ₹15,000/- each for funeral expenses (instead of ₹25,000/-) and loss of estate besides the claimant widow is entitled to ₹40,000/- on account of loss of consortium instead of ₹1,00,000/-. 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), appellants No. 2 and 3 i.e. children of the deceased are entitled to ₹40,000/- each on account of loss of parental consortium and appellants No. 4 and 5 to ₹40,000/- on account of loss of filial consortium. Claimants are, thus, entitled to total compensation of ₹18,62,960/- detailed as under:-

| | |
|---|---|
| Loss of dependency(₹7560x12x18) | ₹16,32,960/- |
| Loss of spousal consortium | ₹40,000/- |
| Loss of parental consortium (40,000 x2) | ₹80,000/- |
| Loss of filal consortium (40,000 x2) | ₹80,000/- |
| Loss of estate | ₹15,000/- |
| Funeral expenses | ₹15,000/- |
| **Total** | ₹18,62,960/- |

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 amount of compensation, present appeal is disposed of.

**(Lisa Gill)**
**Judge**

December 14, 2018
rts

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No