IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 9596 of 2014 (O&M)
Date of decision : November 14, 2018

Rekha and others .....Appellants

Versus

Dharambir and others ....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr.Navneet Singh, Advocate
for the appellants.

Mr. Deepak Suri, Advocate
for respondent No. 3.

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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, Sonepat (hereinafter referred to as the 'Tribunal') on account of death of Gopal Singh vide award dated 19.05.2014.

Brief facts necessary for adjudication of the case are that the claimants i.e. children and mother of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Gopal Singh on 20.11.2012 in a motor vehicle accident caused due to driving of the offending vehicle car bearing registration No. HR-12G-7226 by respondent No.1 in a rash and negligent manner. It was averred that Gopal Singh (deceased) was coming from Gohana to Sonepat. When he reached near Tihar Malik, offending vehicle car bearing registration No. HR-12G-7226 came from Sonepat side being driven in a rash and negligent manner by respondent No. 1. The car struck against LML scooter of the deceased. As a result thereof, Gopal Singh got crushed in the accident. He was taken to Saxena Hospital, Sonepat from where he was referred to Fortis Hospital, Delhi but he succumbed to his injuries. The deceased, aged 42 years at the time of the accident was stated to be earning a sum of ₹35,000/- per month while working as Diploma Engineer in M/s Goyal Project Private Limited.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place on 20.11.2012 due to rash and negligent driving of the offending car bearing registration No. HR-12G-7226 by respondent No. 1. Learned Tribunal awarded a sum of ₹10,81,000/- with interest at the rate of 7.5% 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 1/4th was effected, keeping in view the number of dependants. Multiplier of 14 was applied as the deceased was 42 years old at that time. Additionally, a sum of ₹1,00,000/- on account of loss of consortium was awarded and a sum of ₹1,00,000/- each on account of loss of love and affection besides a sum of ₹25,000/- on account of funeral expenses and transportation.

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

Learned counsel for the appellants argues that the learned Tribunal has erred in assessing the income of the deceased to be ₹6,000/- per month whereas there is specific and positive evidence on record to indicate that the deceased was earning a sum of ₹1,92,000/- per annum at the time of his death. The deceased, who was working as Diploma Engineer in M/s Goyal Project Private Limited, was earning a sum of ₹35,000/- per month. It is further submitted that 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 fairly submitted that though multiplier of 14 has been correctly applied, compensation under the conventional heads is required to be reworked. 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. It is submitted that the compensation has been rightly assessed, thus, impugned award dated 19.05.2014 be upheld.

Heard learned counsel for the parties and have gone through the record.

The claimants in order to prove that the deceased Gopal Singh was working as Diploma Engineer with M/s Goyal Project Private Limited, proved on record salary certificates of the deceased (Ex.P3/A and Ex.P3/C), Form 16 for the assessment year 2011-12 and 2012-13 as Ex.P3/D and Ex.P3/E respectively. PW3 Sanjay Jain son of Ved Prakash, Accountant with M/s Goyal Project Private Limited proved the said documents. Learned Tribunal has discarded the said evidence while observing that neither the employment certificate nor the attendance register was produced, therefore, the entire evidence in the nature of the salary slips which are observed to be computer generated and Form 16 has ignored. Income of the deceased was, thus, assessed as ₹6,000/- per month by the learned Tribunal. However, a perusal of the record reveals that there is no evidence on record to refute the documents as mentioned above, especially the salary certificates and Form 16. Ex.P3/E i.e. Form 16 for the assessment year 2012-13 reveals income of the deceased to be ₹1,92,000/- per annum. There is no evidence on record to impinge upon the veracity of this document. Therefore, income of the deceased is assessed as ₹1,92,000/- per annum instead of ₹6,000/- per month. 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% (₹48000/-) has to be afforded, as the deceased was 42 years old at the time of accident, which takes the income of the deceased to ₹2,40,000/- per annum. 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 applied as number of dependants is four (4), thereby rendering income of the deceased to be ₹1,80,000/-(2,40,000-60000). Applying a multiplier of 14, dependancy of the claimants is, therefore, assessed as ₹25,20,000/- (₹1,80,000x14). The claimants are also entitled to ₹15,000/- each for funeral expenses (instead of ₹25,000/- for funeral expenses and transportation) and loss of estate besides the claimant widow is entitled to ₹40,000/- on account of loss of consortium (instead of ₹1,00,000/- each on account of loss of consortium and love and affection). 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 appellant No. 4 to ₹40,000/- on account of loss of filial consortium. Claimants are, thus, entitled to total compensation of ₹27,10,000/- detailed as under:-

Loss of dependency (₹1,80,000x14)	₹25,20,000/-
Loss of consortium	₹40,000/-
Loss of parental consortium (40,000x2)	₹80,000/-
Loss of filial consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹27,10,000/-

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

November 14, 2018
rts

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