

In the High Court for the States of Punjab and Haryana
at Chandigarh

FAO No.699 of 2016 (O&M)
Date of Decision:- 11.05.2018

Rajinder Kaur and others

.....Appellants

Versus

Jagdish Singh and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present : Mr. Munish Gupta, Advocate, for the appellants.

Mr. Deepak Kundu, Advocate for
Mr. Piyush Khanna, Advocate, for respondent No.1.

Mr. B.S.Walia, Advocate, for respondent No.2.

GURVINDER SINGH GILL, J.

1. By way of filing this appeal, the claimants seek enhancement of compensation as awarded by the learned Motor Accidents Claims Tribunal, Hoshiarpur.
2. Claimant Rajinder Kaur along with her two minor children and parents of her deceased husband Ravail Singh filed a claim petition seeking compensation on account of death of Ravail Singh in a vehicular accident which occurred on 11.1.2014. The claimants averred that the accident in question had taken place due to rash and negligent driving on the part of driver of car bearing registration No. PB-08-BX-4900. The claim petition was contested by the respondents i.e. respondent No.1 Jagdish Singh, driver cum owner of the vehicle as well as the insurer of the said car. The parties were put to proof on the following issues:

- “1. Whether death of Ravail Singh took place in road accident on 11.1.2014 caused due to rash and negligent driving of Car No.PB-08-BX-4900 by respondent No.1. If so, its effect? OPA.
 2. If issue No.1 proved, to what amount of compensation claimants entitled and from whom? OPP.
 3. Whether claim petition is bad due to non-joinder of necessary parties? OPR2
 4. Whether respondent No.1 was not holding valid and effective driving licence at the time of accident and the offending vehicle was not having valid registration certificate and fitness certificate. If so, its effect? OPR2.
 5. Relief.”
3. The claimants, in order to prove their case examined AW-2 Puran Singh and AW-4 Sajjan Singh whereas respondents did not adduce any evidence. The learned Tribunal after holding that the accident had taken place due to rash and negligent driving on the part of the driver of the offending vehicle i.e. the car in question, awarded compensation to the claimants to the tune of ₹26,27,000/-. The claimants, aggrieved by the quantum of compensation, have preferred the present appeal.
4. The learned counsel for the claimants has submitted that the Tribunal did not assess the dependency of the claimants correctly and that while assessing the same even “future prospects” were not taken into account.
5. I have considered the aforesaid submission. A perusal of the impugned judgment reveals that the Tribunal has accepted that the deceased was sending at least ₹20,000/- per month from Italy, where he was working. However, despite having held so, the Tribunal proceeded to take his annual income as ₹2,40,000/- only, which, in my opinion, is erroneous inasmuch as the aforesaid amount of ₹20,000/- was not the income but the dependency of the claimants

as the deceased was sending the aforesaid amount to his family. Needless to say that he must have been retaining some amount required for his own day to day use and for his own personal expenses. By taking ₹20,000/- as the contribution towards the family the annual dependency would work out to ₹2,40,000/-.

6. As per the dictum in National Insurance Company Ltd. Vs. Pranay Sethi, 2017 ACJ 2700 “future prospects” in the age group of 40 to 50 had to be computed @ 25% and which would mean that the dependency in the present case would work out to ₹3,00,000/-. I further find that in view of age the deceased which has been assessed as 44 years by the Tribunal, the appropriate multiplier in accordance with the dictum in Sarla Verma and others Vs. Delhi Transport Corporation and another (2009) 6 SCC 121 ought to have been 14 instead of 13 as applied by the learned Tribunal. By applying a multiplier of 14 to the above assessed dependency of ₹3,00,000/-, the compensation would work out to ₹42,00,000/-. I find that the learned trial Court has however erred in awarding loss of consortium @ ₹1,00,000/- which as per Pranay Sethi's case (Supra) could not have been more than ₹40,000/-. As such, the said amount, as awarded by the Tribunal towards loss of consortium is reduced from ₹1,00,000/- to ₹40,000/-. Similarly, the amount awarded towards funeral expenses have been incorrectly assessed as ₹25,000/- as against the dictum of Pranay Sethi's case (supra) wherein the said amount has been quantified as ₹15,000/-. The amount awarded under loss of estate is required to be increased from ₹6,000/- to ₹15,000/- as per the decision in the aforesaid case. Consequently, the total compensation works out to ₹42,70,000/-.

7. I further find that the Tribunal has not awarded any interest on the

compensation assessed and has simply ordered that in case the compensation amount is not deposited within 3 months, then the claimants would be entitled to interest @ 7.5% from the date of filing of the claim petition. The order of the Tribunal to this extent shall also stand modified and it is clarified that the aforesaid assessed compensation shall be paid by respondent No.2 along with interest @ 7.5% per annum, from the date of filing of the claim petition.

8. The appeal accordingly merits acceptance and is hereby accepted. The amount of compensation as assessed by the Tribunal is enhanced to ₹42,70,000/-, payable along with interest @ 7.5% w.e.f. date of filing of claim petition till realisation, to be shared by the claimants in the following proportion:

Claimant No.1	Rajinder Kaur	₹22,70,000/-
Claimant No.2	Kuljit Kaur (minor)	₹5,00,000/-
Claimant No.3	Manmeet Kaur (minor)	₹5,00,000/-
Claimant No.4	Surjit Kaur	₹5,00,000/-
Claimant No.5	Puran Singh	₹5,00,000/-

9. The shares of minor claimants shall be deposited in fixed deposit account in some nationalized bank which they will not be able to encash before attaining the age of majority unless permitted to do so under orders of the Tribunal.
10. The appeal stands accepted in above terms.

May 11, 2018
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(GURVINDER SINGH GILL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No