IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

FAO No. 7230 of 2016

Date of Decision: December 03 , 2018.

Sahib Singh and others ...... APPELLANT (s)

Versus

Rajesh Kumar and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Barjinder Singh, Advocate for
Mr. Ashish Gupta, Advocate
for the appellants.

None for respondents No.1 and 2.

Mr. S.S.Sidhu, Advocate
for respondent No.3– Insurance Company.

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LISA GILL, J.

This appeal has been filed by the claimants seeking enhancement of compensation awarded to them by the learned Motor Accident Claims Tribunal, Karnal (for short, the 'Tribunal') vide impugned award dated 28.03.2016 on account of death of Gurmeet Singh in a motor vehicle accident.

Brief facts necessary for adjudication of the case are that, the claimants filed a petition under Section 166 of the Motor Vehicles Act (for short, the 'Act') seeking compensation on account of the death of Gurmeet Singh, who lost his life in a motor vehicle accident which took place on 07.07.2015. FIR No.213 dated 22.07.2015 under Sections 279/304A IPC, Police Station Taraori was registered against respondent No.1-Rajesh Kumar. The deceased was claimed to be working as furniture manufacturer and contractor, earning ₹50,000/- per month. Compensation was thus prayed for by the claimants, who are children, widow and father of the deceased.

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 car bearing registration No. HR-11A-5960 by respondent No.1 – Rajesh Kumar. The said finding of the learned Tribunal has attained finality.

Learned Tribunal awarded a sum of ₹31,69,000/- as compensation to the claimants vide impugned award dated 28.03.2016. The deceased was 49 years old at the time of the accident. Income of the deceased was assessed as ₹25,000/- per month. Deduction to the extent of 1/3rd on account of personal expenses was effected and multiplier of 13 was applied. A sum of ₹25,000/- towards funeral expenses, besides, ₹1,00,000/- each to the widow for loss of consortium and to unmarried daughter for loss of love & affection.

Learned counsel for the appellants submits that increment on account of future prospects has not been awarded. It is further submitted that deduction at the rate of 1/3rd has been incorrectly effected by the learned Tribunal while holding that 23 year old unmarried son of the deceased was not dependant on him. It is thus prayed that the compensation be enhanced accordingly.

Learned counsel for respondent No.3 – Insurance Company however refutes the arguments raised. Income of the deceased, it is contended, has been assessed even beyond the amount reflected in the Income Tax Return produced by the claimants. It is submitted that the impugned award dated 28.03.2016 be upheld as there is no ground for any enhancement of the compensation.

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

Liability of the Insurance Company is not in dispute and neither is there a dispute regarding the accident being caused by the rash and negligent act of respondent No.1. Income of the deceased was assessed as ₹25,000/- per month. Learned counsel for the appellants is unable to dispute that Income Tax Return for the assessment year 2015-2016 (Ex.P8) reflects that income of the deceased was ₹2,66,580/- per annum i.e., ₹22,215/- per month. It is submitted that there is no objection to the income being assessed as per the Income Tax Return (Ex.P8). Income of the deceased is thus assessed as ₹2,66,580/- per annum.

Increase in income at the rate of 25% on account of future prospects has to be afforded keeping in view the observations of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, *2017(16) SCC 680***. Multiplier of 13 has been correctly applied. There is nothing on record to show that 23 year old son of the deceased was not dependant. He was unmarried at the time of the accident and admittedly living with his parents. Therefore, deduction to the extent of $1/4^{th}$ towards personal expenses is to be effected while considering the number of dependants i.e., four. ₹15,000/- each towards funeral expenses (instead of ₹25,000/-) and loss of estate are awarded to the appellants. In terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors., in Civil Appeal No.9581 of 2018 decided on 18.09.2018**, the appellants are entitled to ₹40,000/- each on account of loss of consortium.

Appellants-claimants are, thus, entitled to compensation which is re-worked as under:-

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	2,66,580 per annum
2.	Total income after addition at the rate of 25% on account of future prospects	2,66,580 + (2,66,580 **x** 25%) = 3,33,225
3.	Income after $1/4^{th}$ deduction on account of personal expenses	3,33,225 – (3,33,225 **x** 1/4) = 2,49,919
4.	Total dependancy after applying a multiplier of 13	(2,49,919 **x** 13) = 32,48,947
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of spousal consortium @40,000	40,000
8.	Loss of parental consortium @40,000	40,000 x 2 = 80,000
9.	Loss of filial consortium @40,000	40,000
	Grand Total	₹34,38,947/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Appellants shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of filing of the petition till realization. Ratio of apportionment amongst the appellants as well as manner of disbursement as determined by the learned Tribunal shall remain the same.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

December 03 , 2018.
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No