

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.8351 of 2015 (O&M)
Date of decision:12.11.2018.

Gurmeet Kaur

...Appellant

Versus

Gurmukh Singh and another

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Kushagra Mahajan, Advocate for the appellant.

Mr. Vinod Gupta, Advocate for respondent No.2/Insurance
Company.

LISA GILL, J.

This appeal has been filed by the claimant seeking enhancement of the compensation awarded to her by the learned Motor Accident Claims Tribunal, Amritsar ('Tribunal' for short) vide award dated 10.08.2015 on account of death of her son Dilpreet Singh in a motor vehicle accident on 21.11.2013.

The claimant, who is mother of the deceased, filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of her son Dilpreet Singh due to injuries received in a motor vehicle accident which took place on 21.11.2013. FIR No.122 dated 21.11.2013 was registered under Sections 279, 304-A,337,338 and 427 IPC at Police Station Goindwal Sahib against respondent No.1. It was pleaded that the deceased at the time of his death was a carpenter, earning Rs.15,000/- per month. He was 20 years old and unmarried at the time of accident. Compensation was thus prayed for.

The 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 the offending vehicle by its driver. There is no dispute regarding the above said finding of the learned Tribunal on this issue, which has attained finality.

Learned Tribunal further concluded the deceased to be 20 years old at the time of his death and assessed his income as Rs.4000/- per month considering him to be an unskilled labourer. 50% increase in income was added and thus the total income assessed was Rs.6000/-. Deduction of 50% was effected towards personal expenses as he was unmarried. Multiplier of 18 was applied keeping in view the age of the deceased. Thus, total dependency was assessed at Rs.6,48,000/- (36,000x18). A sum of Rs.1,00,000/- was awarded towards loss of love and affection besides Rs.50,000/- towards loss of estate. Another sum of Rs.25,000/- was awarded towards funeral expenses. Thus, the claimant was held entitled to total compensation of Rs.8,23,000/- along with interest @ 9% per annum from the date of filing of claim petition till realisation.

Learned counsel for the appellant submits that specific evidence has been led to the effect that deceased was working as a carpenter, earning Rs.15,000/- per month. Therefore, he should at least have been afforded the minimum wage drawn by a skilled labourer in the State of Punjab at the time of accident, which was Rs.5700/-. It is further submitted that the appellant has no objection in case compensation awarded to the appellant may be reworked in terms of the judgments of Hon'ble the Supreme Court in National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009 and Magma General Insurance Company Ltd. Vs. Nanu Ram alias Chuhru Ram and others, in Civil Appeal No.9581 of 2018 decided on 18.09.2018. It is thus prayed that this appeal be allowed and compensation awarded be enhanced.

Learned counsel for respondent No.2/Insurance Company has refuted the above said arguments while submitting that the impugned award has been passed correctly and no ground for any enhancement is made out.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

It is not in dispute that deceased died due to injuries received in a motor vehicle accident which took place on 21.11.2013 due to the rash and negligent driving of the offending vehicle by respondent No.1. The claimant, who is the mother of the deceased Dilpreet Singh, took a specific stand that her son was working as carpenter, earning Rs.15,000/- per month. Deceased was stated to be 20 years old and unmarried at the time of accident. In order to prove the vocation of the deceased, claimant herself stepped into the witness box as PW1. PW3 Daljit Singh tendered into evidence his affidavit Ex.PW3/A. He specifically stated that deceased was working as a carpenter with him and receiving daily wage of Rs.500/- plus Rs.100/- for two hours overtime. PW3 further stated that deceased was a hardworking carpenter having great expertise in his work. Indeed, there is nothing on record to discredit the testimony of PW3, who was subjected to cross examination. In the facts and circumstances of the case, it is considered just and expedient to assess the income of the deceased to be Rs.5700/- per month being the minimum wage of a skilled labourer in the State of Punjab at the time of accident in 2013.

In view of the judgment of Hon'ble the Supreme Court in the case of Pranay Sethi and others (supra), 40% increase in income has to be afforded on account of future prospects. Deduction of 50% towards personal expenses has rightly been effected. Multiplier of 18 has rightly been applied keeping in view the age of the deceased. In view of the judgment of Hon'ble the Supreme Court in the case of Magma General Insurance Company Ltd. (supra), Rs.40,000/- has to be afforded towards filial consortium instead of Rs.1,00,000/- awarded for loss of love and affection. The claimant is entitled to Rs.15,000/- each for loss of estate and funeral expenses instead of Rs.25,000/- and Rs.50,000/- awarded towards funeral expenses and loss of estate respectively.

Appellant-claimant is, thus, entitled to compensation, which is re-worked as under:-

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Rupees</i>
1.	Income	5700 p.m. i.e., 68,400/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	68,400+27,360 (68,400x40%) = 95,760/-
3.	Income after deduction of 50% on account of personal expenses	95.760–47,880 (95,760/2) = 47,880/-
4.	Total dependency after applying a multiplier of 18	(47,880 x18) =8,61,840/-
5.	Loss of estate	15,000/-
6.	Funeral expenses	15,000/-
7.	Loss of consortium	40,000/-
Grand Total		9,31,840/-

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 entire amount from the date of filing of the petition till realization.

With the abovesaid modification in the award dated 10.08.2015, present appeal is disposed of.

(LISA GILL)
JUDGE

12.11.2018
Ishwar

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No