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

**F.A.O. No.2207 of 2005 (O&M)**
**Date of Decision: 26.09.2019**

Mamo

......Appellant.

Versus

Janardhan and others

...... Respondents.

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

Present: Mr.Bhisham Kumar, Advocate
for the applicant-appellant.

Mr. Vinod Gupta, Advocate
for non-applicant-respondent no.3-Insurance Company.

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**LISA GILL, J.**

**CM-3386-CII of 2019.**

Prayer in this application is for restoration of this appeal which was dismissed in default by this Court vide order dated 05.10.2018, to its original number.

No objection thereto has been raised by learned counsel for non-applicant-respondent no.3.

In view of the reasons mentioned in the application and specific stand of learned counsel for the non-applicant-respondent no.3, appeal is restored to its original number.

At request of learned counsel for the parties, the appeal which is of the year 2005, is taken up for hearing today itself.

Application is accordingly disposed of.

**FOA No. 2207 of 2005.**

Appellant-claimant, seeks enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Faridabad (for short 'tribunal'), vide impugned award dated 26.08.2004, on account of death of Ramedh Khan.

Appellant-claimant is the mother of the deceased.

Brief facts necessary for the adjudication of the case are that appellant-claimant, mother of the deceased-Ramedh Khan, filed a petition under Section 166 of the Motor Vehicles Act, seeking compensation on account of death of Ramedh Khan in a motor vehicle accident which took place on 26.09.1999, due to the rash and negligent driving of the offending vehicle, i.e., jeep bearing registration no. HR-29-H-2061 by its driver-respondent no.1-Janardhan. FIR No. 679 dated 26.09.1999, under Sections 279, 337, 304-A and 427 IPC was registered in this respect.

The deceased was claimed to be an agricultural labourer as well as working for a firm of PW-14-Ramesh Kumar. Learned tribunal while accepting the deceased to be 19 years old at the time of the accident, assessed his income as ₹1800/- per month, with reference to the minimum wages available in the State of Haryana at the relevant time. A sum of ₹1,57,700/- was awarded to the claimant, which is detailed as under:-

| | | |
|---|---|---|
| 1. | Total income of deceased | ₹1800/- p.m. |
| 2. | Deduction | 1/ 3rd |
| 3. | Multiplier | 16 |
| 4. | Funeral expenses | ₹2000/- |
| 5. | Loss of estate | ₹2500/- |
| 6. | Transportation charges | ₹2000/- |

| | | |
|---|---|---|
| | **Total** | **₹1,57,700/-** |

Aggrieved therefrom, the present appeal has been filed by the appellant-claimant.

Learned counsel for the appellant submits that meagre compensation has been awarded by the learned tribunal. Increment towards future prospects has not been afforded. It is submitted that correct multiplier be applied and compensation under the conventional heads be enhanced as well, though, it is not denied that deduction of 50% instead of 1/3rd has to be applied on account of personal expenses. It is thus prayed that this appeal be allowed and the total compensation awarded to the appellant be enhanced.

Learned counsel for respondent No.3-Insurance company refutes the abovesaid averments and submits that just and reasonable compensation has been awarded by the learned Tribunal which does not call for any enhancement. Dismissal of the appeal is prayed for.

I have perused the file and heard learned counsel for the parties.

There is no dispute regarding death of Ramedh Khan, in a motor vehicle accident which took place on 29.09.1999 due to the rash and negligent driving of the offending jeep bearing registration No.HR-29-H-2061 by respondent No.1-Janardhan. Ramedh Khan, has been accepted to be 19 years old at the time of the accident. Deceased is claimed to be an agricultural labourer as well as working with the firm of PW-14-Ramesh Kumar. However, learned counsel for the appellant is unable to deny that there is no specific and categoric evidence on record in respect to either the vocation or the exact income earned by the deceased. At the same time, it is a matter of record that the minimum wage in the State of Haryana at the relevant time was ₹1901/-. Accordingly, income of the deceased is assessed as ₹1900/- per month instead of ₹1800/-, with reference to the minimum wage available to an unskilled labourer in the State of Haryana.

In view of the guidelines of the Hon'ble Supreme Court in the case of **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% has to be afforded, as the deceased was 19 years old at the time of accident. There is merit in the argument raised by learned counsel for the appellant regarding the multiplier to be applied in this case. The matter regarding application of multiplier while assessing the compensation is no longer res integra. It has been held by the Hon'ble Supreme Court in **Munna Lal Jain Vs. Vipin Kumar Sharma, (2015) 6 SCC 347** that the multiplier is to be applied as per the age of the deceased. Therefore, multiplier of 18 instead of 16 has to be applied as the deceased was admittedly 19 years old. Deduction of 50% instead of 1/ $3^{rd}$ has to be applied in this case.

Instead of ₹2000/-, towards funeral expenses, ₹2500/- towards loss of estate and ₹2000/- for transportation, appellant is entitled to ₹15,000/- each towards loss of funeral expenses and loss of estate. Appellant is also entitled to a sum of ₹40,000/- on account of loss of filial consortium. Reference in this regard can gainfully be made to the judgement of the Hon'ble Supreme Court in **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors., 2018(4) RCR(Civil) 333**, as well as decision dated 14.03.2019 of this Court in FAO No.2110 of 2016 (Shri Ram General Insurance Company Ltd. v. Beant Kaur and others).

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

| Sr. No. | Heads of Claim | Amount |
|---|---|---|
| 1. | Income | ₹1900/- p.m. |
| 2. | Loss of income after addition at the rate of 40% on account of future prospects | ₹1900 + (1900 x 40%) = ₹2660/- |
| 3. | Deduction of 50% on account of personal expenses | ₹2660 – (2660 x 50) = ₹1330/- |
| 4. | Loss of dependency after applying a multiplier of 18 | (₹1330 x12 x 18) = ₹ 2,87,280/- |
| 5. | Loss of estate | ₹15,000/- |
| 6. | Funeral expenses | ₹15,000/- |
| 7. | Filial consortium | ₹40,000/- |
| | **Total** | **₹3,57,280/-** |

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Claimant shall be entitled to interest on the enhanced amount of compensation at the rate of 7.5% per annum from the date of filing of the petition till realization. .

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

**[LISA GILL]**
**Judge**

**26.09.2019**
s.khan

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.