

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

FAO No. 1113 of 2006 (O&M)

Date of decision : October 19, 2019

Meena Rani Dhiman and others

.....Appellants

Versus

Sandeep and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: None.

LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter referred to as the 'Tribunal') on account of death of Baldev Singh vide award dated 05.11.2005.

Despite the matter being called twice, there is no representation on behalf of the parties. However, keeping in view the fact that the present is an appeal filed by the claimants for enhancement of compensation and is pending since 2006, I do not find any justification for adjourning this matter.

I have gone through the file as well as the record.

Brief facts necessary for adjudication of the case are that the appellants/claimants i.e. widow, children and mother of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Baldev Singh on 24.03.2004, in a motor vehicle accident, caused due to rash and negligent driving of the offending vehicle, i.e. Motorcycle bearing registration No. HR-02J-1587, by respondent No.1.

Learned Tribunal on considering the evidence on record, facts and circumstances concluded that Baldev Singh died in the accident which took place on 24.03.2004 due to rash and negligent driving of the offending Motorcycle bearing registration No. HR-02J-1587 by respondent No. 1. Learned Tribunal while assessing the income of the deceased to be ₹4370/- per month awarded a sum of ₹5,66,300/- with interest at the rate of 7.5% per annum from the date of filing of the claim petition till the date of actual realisation of the award. Deduction of 1/3rd was effected, keeping in view the number of dependants. Multiplier of 16 was applied, holding the deceased to be 39 years old at that time. Additionally, a sum of ₹5,000/- on account of loss of consortium was awarded and a sum of ₹2,500/- on account of loss of love and affection besides a sum of ₹2,000/- on account of funeral expenses.

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

Perusal of the file reveals that, it is stated, in the grounds of appeal that salary of the deceased has been wrongly assessed as ₹4370/- per month whereas the deceased was earning a sum of ₹10,000/- per month. It is further stated that deduction of 1/3rd has been incorrectly effected besides multiplier being incorrectly applied. It is, thus, prayed that compensation awarded to the claimants be enhanced accordingly.

Perusal of the file reveals that the deceased namely Baldev Singh died in a motor vehicle accident, which took place on 24.03.2004 due to the rash and negligent driving of Motorcycle bearing registration No. HR-02J-1587, by respondent No.1. Baldev Singh is proved to be working as a Welder (Technician Grade II) with Northern Railways at Jagadhri

Workshop. Salary certificate of the deceased is available on record as Ex.P11 and the pay slip for the month of March, 2004 is on record as Ex. P12. The said documents have been duly proved by PW4 Dilbagh Singh son of Mehar Singh, Senior Clerk, Bill Section, Jagadhri Railway Workshop. As per Ex. P11, the deceased was in receipt of salary of ₹5435/- per month, the breakup of which, is as under:-

Pay	:	₹3154/-
D.A.	:	₹1899/-
H.R.A.	:	₹232/-
Incentive Bonus	:	₹75/-
Conveyance Allowance	:	₹75/-
Total	:	₹5435/-

As per salary certificate (Ex. P12), the deceased was in receipt of ₹7006/- for the month of March 2004. Indeed, it is noticed that a sum of ₹1500/- has been included as festival advance. The same has rightly been deducted but at the same time learned Tribunal has wrongly deducted a sum of ₹1065/- towards the loan instalment being paid by the deceased. Income of the deceased is, accordingly assessed as ₹5435/- per month.

As per record, the deceased was 39 years old at the time of the accident, therefore, 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**, increase on account of future prospects at the rate of 50% (₹2718/-) is afforded, which takes income of the deceased to ₹8153/- per month. It is further a matter of record that there are five (05) dependants in this case i.e. the widow, three minor children and aged mother of the deceased, therefore, deduction of 1/4th instead of 1/3rd is to be applied, thereby rendering income of the deceased to be ₹6115/-(8153-2038). Applying a multiplier of 15 instead of 16, dependency of the

claimants is assessed as ₹11,00,700/- (₹6115 x12x15). The claimants are also entitled to ₹15,000/- each for funeral expenses and loss of estate. The claimant widow is entitled to ₹40,000/- on account of loss of consortium. In terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Limited versus Nanu Ram Alias Chuhru Ram and other 2018 (4) RCR (Civil) 333** and decision dated 14.03.2019 of this Court in **FAO No. 2110 of 2016** titled **Shri Ram General Insurance Company Limited versus Beant Kaur and others**, appellants No. 2 to 4 i.e. children of the deceased are entitled to ₹40,000/- on account of loss of parental consortium and appellant No. 5 to ₹40,000/- on account of loss of filial consortium. Claimants are, thus, entitled to total compensation of ₹12,50,700/- detailed as under:-

Loss of dependency(₹6115 x12x15)	₹11,00,700/-
Loss of spousal consortium	₹40,000/-
Loss of parental consortium	₹40,000/-
Loss of filial consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹12,50,700/-

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above. Appellants are 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.

A copy of this order be conveyed to the appellants at the given address.

October 19, 2019
rts

(Lisa Gill)
Judge

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