IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O. No.3397 of 2007 (O&M)
Date of Decision: 08.05.2019

Mukhtiar Kaur and another

......Appellants.

Versus

Roop Singh and others ...... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.Sushil Sharma, Advocate
for Mr. Gurcharan Dass, Advocate
for the appellants.

None for respondents no.1 and 2, despite publication.

Mr. Lalit Garg, Advocate
for respondent no.3-Insurance Company.

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<u>LISA GILL, J.</u>

Appellants-claimants, seek enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Ludhiana (for short 'tribunal'), vide impugned award dated 01.05.2007, on account of death of Dilbagh Singh son of Mohinder Singh.

Appellants-claimants, who are parents of Dilbagh Singh (deceased), filed a petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'Act') claiming compensation on account of death of their son-Dilbagh Singh, which took place on 25.09.2004, due to rash and negligent driving of driver of the offending vehicle i.e., truck bearing registration no. HR-38-G-9442 by its driver-respondent no.1. FIR No. 123/2004 under Sections 279, 304-A IPC, Police Station Murthal, District Sonepat, was registered, in this respect.

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Learned Tribunal concluded that the accident in question was caused due to rash and negligent driving of the offending vehicle by respondent no.1-Roop Singh. Said finding of the learned tribunal has attained finality.

While assessing dependency of the claimants to be ₹1000/- per month, a sum of ₹96,000/- was awarded. Multiplier of 8 was applied by the learned tribunal. A sum of ₹2,000/- was awarded towards funeral expenses and ₹2500/- was awarded towards loss of estate. Learned tribunal awarded a sum of ₹1,00,500/- along with interest @ 7.5% per annum from the date of filing of the claim petition till realisation of the amount to the claimants.

It is further observed by the learned tribunal that in case, the Insurance Company is able to prove that respondent no.1 was not having a valid and effective driving licence on the date of the alleged accident, it may recover the same from the said respondents after paying the amount of compensation to the claimants at the first instance.

Aggrieved therefrom, present appeal has been filed by the appellants-claimants.

Learned counsel for the appellants vehemently argues that income of the deceased, aged 20 years, has not been correctly assessed as he is proved to be working as a cleaner at the time of his death. Increment on account of future prospects has not been afforded. It is further submitted that the learned Tribunal has erred in applying a multiplier of 8. Moreover, compensation under the conventional heads is meagre. It is thus prayed that the amount of compensation awarded to the appellants be enhanced accordingly.

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

There is no dispute regarding death of Dilbagh Singh in a motor vehicle accident which took place on 25.09.2004 due to the rash and negligent driving of the offending truck bearing registration No.HR-38G-9442 by respondent No.1-Roop Singh.

It is specifically pleaded by the claimants that when the deceased was proceeding from Delhi to Tarn Taran on 25.09.2004 on Tata-709 bearing registration no. PB-13-F-0183, which was being driven by Avtar Singh son of Balwan Singh, tyre of the said vehicle burst and the deceased was changing the tyre. In the meanwhile, offending vehicle i.e., truck bearing registration no. HR-38-G-9442, being driven in a rash and negligent manner by respondent no.1-Roop Singh came from the rear side and struck against Tata-709, which resulted in the death of Dilbagh Singh at the spot. Dilbagh Singh is claimed to be working as a cleaner on the said vehicle, which was being driven by Avtar Singh at the relevant time and earning a salary of ₹4500/- per month. Avtar Singh stepped in the witness box as PW-3 and affirmed that he was working on Tata-709 at the relevant time and owner of the said vehicle was Jasbir Singh. Dilbagh Singh, it is stated was working as a cleaner on the said vehicle. Doubtlessly, owner of the vehicle has not been examined to prove salary of ₹4500/- per month

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being paid to Dilbagh Singh. It is merely the oral deposition of claimant-Mohinder Singh, in this regard which is available on record. However, it is noticed that minimum wage of a casual labourer at the time of accident in the State of Punjab was about ₹2000/- per month. In this view of the matter, it is considered just and expedient to assess income of the deceased to be ₹2500/- per month.

The matter regarding application of multiplier while assessing the compensation is no longer res integra. The Hon'ble Supreme Court in **Munna Lal Jain v. Vipin Kumar Sharma, (2015) 6 SCC 347** has specifically held that multiplier is to be applied with reference to the age of the deceased. Deceased-Dilbagh Singh was 20 years old at the time of the accident. Hence, multiplier of 18 instead of 8, is required to be applied.

Increase in income at the rate of 40% 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**. Deduction to the extent of 50% has to be applied. Appellants are entitled to ₹15,000/- each instead of ₹2000/- and ₹2500/- on account of funeral expenses and loss of estate respectively. Appellants are held entitled to ₹40,000/- on account of loss of filial consortium. Reference in this regard can gainfully be made to the judgment 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).

Appellants-claimants are, thus, entitled to compensation which

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is reworked as under:-

Sr. No.	Heads of Claim	Amount
1.	Income	₹2500/- p.m.
2.	Total income after addition at the rate of 40% on account of future prospects	₹2500 + (2500 x 40%) = ₹3500
3.	Income after 50% deduction on account of personal expenses	₹3500 – (3500 x 1/2) = ₹1750/-
4.	Total dependancy after applying a multiplier of 18	(1750 x12 x 18) = ₹ 3,78,000/-
5.	Loss of estate	₹15,000/-
6.	Funeral expenses	₹15,000/-
7.	Filial consortium	₹40,000/-
	Total	**₹4,48,000/-**

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Claimants 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. Manner of disbursement as determined by the learned Tribunal shall remain the same.

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

[LISA GILL]
Judge

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

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