IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 2228 of 2007 (O&M)
Date of decision : March 18, 2019

Harpreet Kaur and others .....Appellants

Versus

Mohinder Yadav and others ....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Jasmail Singh Brar, Advocate
for the appellants.

Mr. R.N. Singal, Advocate
for respondent No. 3.

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LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Barnala (hereinafter referred to as the 'Tribunal') on account of death of Jagjit Singh vide award dated 25.01.2007.

Brief facts necessary for adjudication of the case are that the claimants i.e. widow, two minor children and mother of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Jagjit Singh on 29.09.2004 in a motor vehicle accident caused due to rash and negligent driving of the offending vehicle truck/trailer bearing registration No. HR-37/1656 by respondent No.1. It was averred that Paramjit Singh, Jagjit Singh and Sumit Pal were coming from Chandigarh in Maruti Zen car bearing registration No. PB-19B/3162. Jagjit Singh was driving the car. When they reached within the revenue limits of village Mehar Kalan, the offending vehicle truck/trailer bearing registration No. HR-37/1656 came from opposite side and struck against the car. As a result thereof, all the occupants of the car sustained serious multiple injuries. Jagjit Singh was rushed to Government Hospital, Rajpura where he succumbed to his injuries. FIR (Ex.PA) was registered. The claimants sought compensation on account of death of Jagjit singh.

Learned Tribunal on considering the evidence on record, facts and circumstances of the case concluded that Jagjit Singh died in the accident which took place on 29.09.2004 due to rash and negligent driving of the offending truck/trailer bearing registration No.HR-37/1656 by respondent No. 1. This finding of the learned Tribunal has attained finality. Learned Tribunal awarded a sum of ₹6,60,000/- with interest at the rate of 6% per annum from the date of filing of the claim petition till date of actual realisation of the award. Income of the deceased was assessed as ₹95,000/- per annum. Deduction of 1/3rd was effected, keeping in view the number of dependants. Multiplier of 15 was applied as the deceased was 35 years old at that time. A sum of ₹15,000/- was awarded on account of funeral expenses.

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

Learned counsel for the appellants submits that income of the deceased has been assessed at a much lower side and increment on account of future prospects has not been afforded. Moreover, learned Tribunal has wrongly effected deduction of 1/3rd instead of 1/4th. Compensation under the conventional heads should also be enhanced. Interest, it is argued, has been awarded at a very low rate. It is, thus, prayed that compensation awarded to the claimants be reworked accordingly.

Learned counsel for the respondent - insurance company per contra submits that there is no ground for any enhancement in the compensation awarded which is just and reasonable. The deceased was an agriculturist, so at best it is loss of managerial skills, to which the appellants are entitled to.

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

There is no dispute that Jagjit Singh lost his life in a motor vehicle accident, which took place on 29.09.2004 caused due to the rash and negligent driving of truck/trailer bearing registration No. HR-37/1656 by respondent No.1. It is a matter of record that the deceased was 35 years old at the time of the accident, his date of birth being 05.04.1969. The deceased was admittedly an agriculturist. His income has been assessed on the basis of J-Forms produced by the claimants. I do not find any ground whatsoever to assess income of the deceased to be more than ₹95,000/- per annum as has been assessed by the learned Tribunal. There is no evidence on record that the deceased had any other source of income apart from that derived through agriculture. However, 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 40% (₹38,000/-) has to be afforded, as the deceased was 35 years old at the time of accident, which takes income of the deceased to ₹1,33,000/- per annum. In view of the guidelines laid down by the Hon'ble Supreme Court in case of ***Smt. Sarla Verma and others Versus Delhi Transport Corporation and another*** 2009 (3) RCR (Civil) 77, deduction of 1/4th instead of 1/3rd is to be applied as number of dependants is four (4), thereby rendering income of the deceased to be ₹99,750/- (133000-33250). Applying a multiplier of 16 instead of 15, dependancy of the claimants is assessed as ₹15,96,000/- (₹99,750x16). A sum of ₹15,000/- on account of funeral expenses is maintained. The claimants are also entitled to ₹15,000/- for loss of estate. Appellant No. 1/ widow is entitled to ₹40,000/- on account of loss of consortium. Appellants No. 2 to 4 are entitled to consolidated sum of ₹1,00,000/- on account of loss of parental and filial consortium. Reference in this regard can gainfully be made to the judgments 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 **Vimla Devi and others v. National Insurance Company Ltd. and anr.,** ***2019(1) RCR(Civil) 86***.

Claimants are, thus, entitled to total compensation of ₹17,66,000/- detailed as under:-

Loss of dependency (₹99,750x16)	₹15,96,000/-
Loss of spousal consortium	₹40,000/-
Loss of parental and filial consortium	₹1,00,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹17,66,000/-

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above. Appellants shall be entitled to interest at the rate of 7.5% per annum instead of 6% per annum as afforded by the learned Tribunal on the entire 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.

(Lisa Gill)
Judge

March 18, 2019
rts

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