IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.7143 of 2011
Date of decision:21.05.2019

Pala Ram and another

…. Appellants

Versus

Gurnam Singh and another

….Respondents

CORAM : HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Karan Garg, Advocate for the appellants.

Mr. T.K. Joshi, Advocate for respondent No.3-Insurance Company.

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ARUN KUMAR TYAGI, J.

1. The claimants-parents of deceased-Ravi have filed the present appeal seeking enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, Hisar (for short 'the Tribunal') vide award dated 28.01.2011 passed in **MACT Case No.104-MACT of 2009 titled as Pala Ram and another Vs. Gurnam Singh and others** on account of death of Ravi due to injuries suffered in a motor vehicle accident which took place on 03.04.2009.

2. The claimants filed the above-said claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the M.V. Act') on the averments that on 03.04.2009 at about 8:00 a.m. Rameshwar and his 'Bahnoi' (brother-in-law) Pala Ram were returning on bicycle

from village Mugalpura to Saniyana after getting treatment to Ravi for fever. Deceased-Dariya Ram and Ravi were following them on another bicycle. When they reached near Farm of Dr. Sangwan, truck bearing registration No.HR-37-3800, owned by respondent No.2 and insured with respondent No.3, driven by respondent No.1 rashly and negligently came from back side and ran over Dariya Ram and Ravi who died on the spot. The driver of the truck fled away leaving the truck on the spot. FIR No.92 dated 03.04.2009 was registered under Sections 279 and 304-A of the Indian Penal Code, 1980 in Police Station Uklana, District Hisar regarding the accident.

3. While pleading that the deceased-Ravi was aged about 22 years and was earning ₹6,000/- per month by working as labourer and claiming themselves to be dependents and legal representatives of the deceased, the claimants prayed for award of compensation of ₹10 lacs with costs and interest against respondent No.1-driver, respondent No.2-owner and respondent No.3-insurer of the truck jointly and severally.

4. The petition was contested by respondents. In their written statement respondents No.1 and 2 while taking preliminary objections as to want of cause of action, estoppel, mis-joinder and non-joinder of parties, maintainability etc. denied the accident and their liability. In its written statement respondent No.3 took objections as to respondent No.1 not having valid and effecting driving licence and breach of the terms and conditions of the insurance policy, controverted material averments made in the petition and denied its liability.

5. The dependents of deceased-Dariya Ram filed separate claim petition under Section 166 of the M.V. Act bearing **MACT Case No.103-MACT of 2009 titled Bohti Devi Vs. Gurnam Singh and others** which was contested by the respondents and tried with the above-said claim petition filed by Pala Ram and another.

6. The Tribunal framed the issues and recorded the evidence produced by the parties. On perusal of the material on record and consideration of the submissions made by the learned Counsel for the parties the Tribunal held that Ravi died due to injuries suffered in accident caused by rash and negligent driving of truck bearing registration No.HR-37-3800 by respondent No.1, assessed his income as ₹4,500/- per month, deducted ½ towards personal expenses, applied the multiplier of 14 and by adding ₹10,000/- towards transportation and last rites of the deceased awarded total compensation of ₹3,88,000/- to the claimants with costs and interest at the rate of 6% per annum and directed respondents No.1 to 3 to pay the compensation amount jointly and severally.

7. In the other connected case, the Tribunal awarded compensation of ₹1,00,000/- to the widow of deceased-Dariya Ram with costs and interest at the rate of 6% per annum from the date of filing of the claim petition till realization.

8. Feeling aggrieved, the claimants-parents of deceased-Ravi have filed present appeal for enhancement of compensation.

9. I have heard arguments addressed by learned Counsel for the appellants and learned Counsel for respondent No.3-Insurance Company and have gone through the record.

10. Learned Counsel for the appellants has argued that the Tribunal did not properly assess income of the deceased, did not make any addition towards future prospects and applied wrong multiplier of 14 instead of applying multiplier of 18 as per age of the deceased. The Tribunal did not award any amount towards loss of consortium and loss of estate. The Tribunal also awarded lesser rate of interest. Therefore, the impugned award may be modified and the compensation awarded by the Tribunal may be enhanced.

11. On the other hand learned Counsel for respondent No.3-Insurance Company has argued that the Tribunal has awarded just and adequate compensation and the claimants are not entitled to enhancement of the amount awarded. Therefore, the appeal may be dismissed.

12. In the claim petition the claimants pleaded and PW-1 Pala Rama testified before the Tribunal that the deceased was earning ₹6,000/- per month at the time of his death but in the absence of corroboration by any other cogent and reliable oral or documentary evidence self-serving solitary testimony of Pala Ram as to quantum of income of the deceased could not be relied upon and was rightly disbelieved by the Tribunal. Therefore, assessment of the income of the deceased as ₹4,500/- per month by the Tribunal on the basis of wages of ₹150/- per day payable to unskilled labourer during the relevant period cannot be said to be improper. However, the Tribunal did not make any addition in the income of the deceased towards future prospects. In view of the age of the deceased and observations of Hon'ble Supreme Court in para No.61(iv) of its judgment in **National**

Insurance Company Limited Vs. Pranay Sethi and Others, 2017 (4) R.C.R. (Civil) 1009, addition of 40% of the established income was required to be made towards future prospects. When so added, income of the deceased comes to (₹4,500/- + ₹1,800/- =) ₹6,300/-.

13. Since the deceased was bachelor ½ of his income was rightly deducted by the Tribunal towards his personal expenses as per observations in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another 2009 (3) R.C.R. (Civil) 77**. On such deduction annual dependency of the claimants on the deceased comes to ₹6,300/- – ₹3,150/- (1/2) = ₹3,150/- X 12 = ₹37,800/-.

14. Hon'ble Supreme Court observed in para No.61(vii) of its judgment in **Pranay Sethi's case (Supra)** that the age of the deceased should be the basis for applying the multiplier. The Tribunal erred in applying the multiplier of 14 as per age of the claimants. In view of the age of the deceased being 22 years and observations of Hon'ble Supreme Court in para No.21 of its judgment in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another 2009 (3) R.C.R. (Civil) 77** multiplier of 18 was required to be applied by the Tribunal. When multiplier of 18 is applied to annual dependency of the claimants on the deceased, compensation payable for loss of dependency comes to (₹37,800 X 18 =) ₹6,80,400/-.

15. In the present case, the Tribunal merely awarded amount of ₹10,000/- to the claimants towards transportation and last rites of the deceased and did not award any amount towards loss of consortium and loss of estate. In **Pranay Sethi's Case (Supra)**, while answering the reference on **31.10.2017** Hon'ble Supreme Court

observed in para No.61 (viii) of its judgment that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be ₹15,000/-, ₹40,000/- and ₹15,000/- respectively. In the said case, Hon'ble Supreme Court further observed that the aforesaid amounts should be enhanced at the rate of 10% in every three years. As a corollary to above observations of Hon'ble Supreme Court for enhancement of the figures on conventional heads at the rate of 10% in every three years for assessment of compensation in cases arising in future, the figures on conventional head will be liable to reduction at the rate of 10% for every three years for assessment of compensation in cases which have arisen in the past. In the present case the accident took place on **03.04.2009** and therefore, the amounts under conventional heads will be liable to be reduced by **20%**. In **Magma General Insurance Company Limited Vs. Nanu Ram @ Chuhru Ram and others, 2018 (4) R.C.R. (Civil) 333** Hon'ble Supreme Court clarified that in legal parlance 'consortium' is compendious term which encompasses 'spousal consortium', 'parental consortium' and 'filial consortium' and awarded compensation of ₹40,000/- each for loss of filial consortium to father and sister of the deceased. However, the Bench observed in para No.8.7 of its judgment that the amount of compensation to be awarded for loss of consortium will be governed by the principles of awarding compensation under 'Loss of Consortium' as laid down in **Pranay Sethi's Case (Supra)**. In view of the above referred judicial precedents, the claimants will be entitled to award of compensation of

₹32,000/- towards loss of filial consortium, ₹12,000/- towards funeral expenses and ₹12,000/- towards loss of estate in equal shares.

16. Accordingly, compensation payable to the claimants on account of death of Ravi is tabulated as under:-

Sr. No.	Head	Compensation
1.	Monthly income of the deceased	₹4,500/- per month
2.	Income after addition of future prospects at the rate of 40%	₹4500 + ₹1800 = ₹6300/-
3.	Deduction of ½ on account of personal expenses	₹6300 – ₹3150 (1/2) = ₹3150/-
4.	Annual Dependency	₹3150 x 12 = ₹37,800/-
5.	Loss of Dependency	₹37,800/- x 18 = ₹6,80,400/-
6.	Funeral Expenses	₹12,000/-
7.	Compensation payable for loss of spousal, parental and filial consortium	₹32,000/-
8.	Loss of Estate	₹12,000/-
	Total Compensation	₹7,36,400/-

17. In the present case, the Tribunal directed the payment of compensation amount with interest at the rate of 6% per annum from the date of filing of the claim petition till realization of the whole amount which is challenged to be inadequate and the question which arises is as to what would be the appropriate rate of interest.

18. In claim petitions under Section 163-A or 166 of the M.V. Act, the Motor Accidents Claims Tribunal is empowered by Section 171 of the M.V. Act to award interest from the date of making the claim at such rate as may be specified by it. In awarding interest, the Motor Accident Claims Tribunal is not bound by the provisions of Section 34 of the Code of Civil Procedure, 1908 to restrict the award of interest to 6% per annum. In **Puttamma and others Vs. K.L.Narayana Reddy and another 2014 (1) R.C.R. (Civil) 443,** Hon'ble Supreme Court

observed in para 60 as under:-

> "This Court in **Abati Bezbaruah Vs. Deputy Director General, Geological Survey of India and another (2003) 3 SCC 148** noticed that varying rate of interest is being awarded by the Tribunals, High Courts and this Court. In the said case, this Court held that the rate of interest must be just and reasonable depending on the facts and circumstances of the case and should be decided after taking into consideration relevant factors like inflation, change in economy, policy being adopted by the Reserve Bank of India from time to time, how long the case is pending, loss of enjoyment of life etc."

19. In **Supe Dei and others Vs. National Insurance Company Ltd. and another 2009 (4) SCC 513**, Hon'ble Apex Court held that 9% per annum would be the appropriate rate of interest to be awarded in Motor Accidents Claims compensation cases.

20. In **Sube Singh and another Vs. Shyam Singh (Dead) and others 2018 (2) R.C.R. (Civil) 131 (SC)** rate of interest of 6% per annum awarded by the Motor Accidents Claims Tribunal was modified by Hon'ble Supreme Court of India to 9% per annum.

21. In view of the observations in above referred judicial precedents, RBI's lending rate of interest, mercantile rate of interest prevalent, rate of interest allowed by Nationalized Banks on fixed deposit receipts and other relevant factors, it will be appropriate to modify the rate of interest of 6% per annum awarded by the Tribunal to 9% per annum.

22. It follows from the above discussion that the claimants are entitled to payment of compensation of ₹7,36,400/- with costs and interest at the rate of 9% per annum from the date of filing of the petition till realization. The amount of ₹3,88,000/- awarded to the claimants by the Tribunal shall be liable to be deducted from the

amount calculated as above. The enhanced amount of ₹3,48,400/-, shall be payable to claimants in equal shares. 50% of the enhanced compensation as per their shares shall be payable to the claimants in cash and remaining 50% shall be deposited in FDRs in their names in some nationalized Bank for three years.

23. The appeal is, accordingly, allowed with costs in terms of the above said modifications of the award dated 28.01.2011.

(ARUN KUMAR TYAGI)
JUDGE

21.05.2019
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No