IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 2772 of 2013 (O&M)
Date of decision : August 16, 2019

Hardeep Kaur and others .....Appellants

Versus

Balwinder Singh and others ....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mrs. Hardeep Kaur, appellant No. 1 in person.

Mr. Rajbir Singh, 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, Patiala (hereinafter referred to as the 'Tribunal') on account of death of Tarsem Singh @ Tarsem Chand vide award dated 03.11.2012.

Brief facts necessary for adjudication of the case are that the claimants i.e. widow, two minor children, disabled brother (blind) and parents of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Tarsem Singh @ Tarsem Chand on 05.06.2011, in a motor vehicle accident, caused due to rash and negligent driving of the offending vehicle, i.e. Truck bearing registration No. HP-11B-5445, by respondent No.1. It is claimed that the deceased, 27 years old at the time of the accident, was working as a Halwai earning a sum of ₹20,000/- per month.

Learned Tribunal on considering the evidence on record, facts and circumstances concluded that Tarsem Singh @ Tarsem Chand died in the accident, which took place on 05.06.2011 due to rash and negligent driving of the offending Truck, bearing registration No. HP-11B-5445, by respondent No. 1. Learned Tribunal accepted the deceased to be 28 years old at the time of the accident and assessed his income to be ₹3,000/- per month while concluding that no evidence was led by the claimants to prove the exact income of the deceased. A sum of ₹4,18,000/- with interest at the rate of 7% per annum from the date of filing of the claim petition till date of actual realisation of the award was awarded by the learned Tribunal. Multiplier of 17 was applied as the deceased was 28 years old at that time. Additionally, a sum of ₹10,000/- on account of funeral expenses was awarded.

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

Appellant No. 1 i.e. widow of the deceased is present in Court today. She furnishes her Aadhar Card as proof of identity. Photocopy thereof is taken on record subject to just exceptions.

She submits that meagre compensation has been granted, which should be enhanced.

Learned counsel for the insurance company submits that adequate compensation has been awarded by the learned Tribunal which calls for no further enhancement. It is submitted that the compensation has been rightly assessed, thus, impugned award dated 03.112012 be upheld.

I have heard appellant No. 1 as well as learned counsel for respondent No. 3 and have gone through the available file.

There is no dispute that Tarsem Singh @ Tarsem Chand lost his life in a motor vehicle accident, which took place on 05.06.2011 caused due to the rash and negligent driving of Truck bearing registration No. HP-11B-5445, by respondent No.1. Finding of the learned Tribunal on this issue has attained finality. It is also not disputed that the deceased was 28 years old at the time of the accident. There is, however, no cogent evidence on record to indicate the deceased to be earning a sum of ₹20,000/- per month while working as a Halwai. Admittedly, it is not the case of the appellants that the deceased was running a Halwai shop. Ex.A4, sought to be relied on for proving the deceased's income, is a list of articles/ingredients which was purportedly given to the customers of the deceased. The same is a typed list of 150 articles. The said list in isolation and by itself, is clearly not sufficient to prove the income of the deceased to be ₹20,000/- per month. However, at the same time, it is a matter of record that minimum wage of an unskilled labourer in the State of Punjab at the time of the accident was ₹3842/- per month and that of a skilled labourer was ₹4187/- per month. Even as per the averments in the FIR itself, the truck in which the deceased was travelling was loaded with Langar material (food articles to be prepared). Therefore, it is considered just and expedient to assess income of the deceased to be ₹4,200/- per month.

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% (₹1680/-) is afforded, as the deceased was 28 years old at the time of accident, which takes income of the deceased to ₹5880/- per month. 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 is to be applied, thereby rendering income of the deceased to be ₹4410/-(5880-1470). Applying a multiplier of 17, dependancy of the claimants are assessed as ₹8,99,640/- (₹4410x12x17). The claimants are also entitled to ₹15,000/- each for funeral expenses (instead of ₹10,000) and loss of estate, besides 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 and 3 i.e. children of the deceased are entitled to ₹40,000/- on account of loss of parental consortium and appellants No. 5 and 6 to ₹40,000/- on account of loss of filial consortium. Claimants are, thus, entitled to total compensation of ₹10,49,640/- detailed as under:-

Loss of dependency (₹4410x12x17)	₹8,99,640/-
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	₹10,49,640/-

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%, instead of 7% per annum 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

August 16, 2019
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No