IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

XBOJC No. 230-CII of 2014 and
FAO No. 1788 of 2014 (O&M)
Date of decision : July 11, 2019

Shriram General Insurance Company Limited .....Appellant

Versus

Manju Devi and others ....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Akash Sridhar, Advocate
for the appellant.

Mr. Ashwani Arora, Advocate
for respondents No. 1 to 4/cross objectors.

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LISA GILL, J.

This judgment shall decide FAO No. 1788 of 2014 as well as cross objections No. 230-CII of 2014 filed by respondents No. 1 to 4 i.e. claimants.

Appellant - Shriram General Insurance Company Limited is aggrieved of award dated 02.01.2014 passed by the learned Motor Accident Claims Tribunal, SAS Nagar, Mohali (hereinafter referred to as the 'Tribunal') inasmuch as it is argued that excess compensation has been awarded by the learned Tribunal. Cross objectors, on the other hand, pray for enhancement of compensation awarded by the learned Tribunal.

Claimants, in this case, i.e. widow and three children of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Harinder Singh. It is pleaded that Harinder Singh died in a motor vehicle accident, which took place on 12.05.2012, due to rash and negligent driving of the offending vehicle, i.e.

Tipper bearing registration No. PB-65-F-9957 by respondent No. 5. Harinder Singh was admittedly working as a Lineman with the office of SDO, Electricity Operations, Sub Division No. 1, Sector 23, Chandigarh, taking a salary of ₹34,083/- per month.

Learned Tribunal on considering the evidence on record, facts and circumstances concluded that Harinder Singh died in the accident which took place on 12.05.2012 due to rash and negligent driving of the offending Tipper bearing registration No. PB-65-F-9957 by respondent No. 5. Learned Tribunal while assessing the income of the deceased to be ₹34,083/- per month and deducting a sum of ₹16,850/- per annum towards income tax returns, awarded a sum of ₹38,13,460/- with interest at the rate of 9% per annum from the date of filing of the claim petition till date of actual realisation of the award. 30% of the income was awarded towards future prospects. Deduction of 1/3rd was effected, keeping in view the number of dependents. Multiplier of 11 was applied as the deceased was 55 years old at that time. Additionally, a sum of ₹25,000/- on account of loss of consortium was awarded besides a sum of ₹25,000/- each on account of loss of estate and funeral expenses.

Both the insurance company as well as the claimants are aggrieved of the quantum of compensation.

Learned counsel for the insurance company has prayed for reduction of the compensation and calculation of the same in terms of judgment of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**. It is, thus, prayed that the present appeal be allowed.

Learned counsel for respondents No. 1 to 4/cross objectors also prays for reworking of the compensation in terms of judgments of the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra) as well as **Magma General Insurance Company Limited versus Nanu Ram Alias Chuhru Ram and other 2018 (4) RCR (Civil) 333.** Compensation under the conventional heads, it is submitted, is meagre. It is, thus, prayed that this appeal be dismissed and cross objections be allowed.

Heard learned counsel for the parties.

There is no dispute regarding death of Harinder Singh in a motor vehicle accident, which took place on 12.05.2012 due to the rash and negligent driving of Tipper bearing registration No. PB-65-F-9957 driven by respondent No.5. Harinder Singh was admittedly working as a Lineman with the Electricity Department, UT, Chandigarh and was 55 years old at the time of the accident. The date of birth of the deceased was 14.04.1957. The official record of service is proved by PW1 Paramjit Kaur, LDC, from the office of SDO, Electricity Operations, Chandigarh. It is a matter of record that the deceased was in receipt of salary of ₹34,083/- per month. Learned Tribunal has rightly deducted a sum of ₹16,850/- per annum towards income tax.

There is no dispute regarding income of the deceased to be ₹34,083/- per month i.e. ₹4,08,996/- per annum as assessed by the learned Tribunal on the basis of the record produced in Court. Income of the deceased, as assessed by the learned Tribunal, is thus upheld as ₹4,08,996/- per annum. After deducting a sum of ₹16,850/- per annum towards income tax returns, annual income of the deceased was ₹3,92,146/-. In view of the guidelines of the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), increase on account of future prospects at the rate of 15%

(₹58822/-) is afforded, as the deceased was 55 years old at the time of accident, which takes income of the deceased to ₹4,50,968/- per annum. There is merit in the argument raised by learned cross objectors/respondents No. 1 to 4 that keeping in view the fact that the number of dependents in this case are four '4', deduction should be 1/4th and not 1/3rd. There is indeed no evidence on record to show that the children of the deceased though major were not dependent upon the deceased or are gainfully employed. One of the children is an unmarried daughter of the deceased. All of them were living together. Thus, as per the guidelines laid down by the the Hon'ble Supreme Court in case of ***Smt. Sarla Verma and others Versus Delhi Transport Corporation and another*** 2009 (3) RCR (Civil) 77, it is considered just and proper to direct the deduction of 1/4th instead of 1/3rd. Thereby income of the deceased is rendered to be ₹3,38,226/-(450968-112742). Applying a multiplier of 11, dependancy of the claimants is assessed as ₹37,20,486/- (3,38,226 x11). The claimants are also entitled to ₹15,000/- each for funeral expenses and loss of estate (instead of ₹25,000/-) besides the claimant widow is entitled to ₹40,000/- on account of loss of consortium (instead of ₹25,000/-). In terms of the judgment of the Hon'ble Supreme Court in the case of **Magma General Insurance Company Limited** (supra) 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**, respondents No. 2 to 4 i.e. children of the deceased are entitled to ₹40,000/- on account of loss of parental consortium. Claimants are, thus, entitled to total compensation of ₹38,30,486/- detailed as under:-

Loss of dependency (3,38,226 x11)	₹37,20,486/
Loss of spousal consortium	₹40,000/-
Loss of parental consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹38,30,486/-

The amount of compensation already awarded to respondents No. 1 to 4 needless to say, shall stand deducted from the amount calculated as above. Respondents No. 1 to 4 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 and cross objections are disposed of.

(Lisa Gill)
July 11, 2019 **Judge**
rts

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