

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No. 1205 of 2015 (O&M)

Date of decision : April 02, 2019

Sunita and others

.....Appellants

Versus

Jaswinder Singh and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Sanjeev Goyal, Advocate
for the appellants.

Mr. P.K.S Phoolka, Advocate
for respondent No. 1.

Ms. Monika Singh, Advocate for
Mr. A.K. Ghalawat, Advocate
for respondent No. 2.

LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Sangrur (hereinafter referred to as the 'Tribunal') on account of death of Mohit Kumar vide award dated 19.08.2014.

Learned counsel for the appellants does not press this appeal qua appellants No. 2 and 3.

Appeal is, accordingly, dismissed as not pressed qua the said appellants and it survives only qua appellant No. 1.

Brief facts necessary for adjudication of the case are that the claimants i.e. parents and minor brother of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Mohit Kumar on 27.07.2012 in a motor vehicle accident caused due to rash and negligent driving of the offending vehicle,

i.e. bus bearing registration No. RJ-31-PA-1220 by respondent No.1. It is pleaded that Mohit Kumar (deceased) alongwith Suraj Parkash, Malkiat Singh, Buta Singh, Bikramjit Singh and Kuldeep Singh were returning from Kochi in a Travera car bearing registration No. PB-13S-9637. When they reached on Megha highway near village Bhojasar, offending vehicle, bus bearing registration No. RJ-31-PA-1220 driven by respondent No. 1 in a rash and negligent manner came from opposite side and rammed into the Travera car. As a result thereof, all the six occupants of the car multiple grievous injuries and succumbed to their injuries. The deceased, aged 21 years, had cleared his +2 examination. He was running a shop in the name and style of Kalra Communication at Barnala Chowk, Sangrur and earning ₹15,000/- per month.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place on 27.07.2012 due to rash and negligent driving of the offending bus bearing registration No. RJ-31-PA-1220 by respondent No. 1. Income of the deceased was assessed as ₹6,250/- per month while considering the deceased to be a working as a labourer. It is observed that a labourer would earn ₹250/- per day and ₹6,250/- per month was assessed presuming the deceased to be working for 25 days in a month. Learned Tribunal awarded a sum of ₹10,37,500/- 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. Increment of 50% in income was afforded and 50% deduction was effected as the deceased was bachelor. Multiplier of 18 was applied as the deceased was 21 years old at that time. Additionally, a sum of ₹25,000/- was awarded on account of funeral expenses.

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

Learned counsel for the appellants argues that the deceased had successfully cleared his +2 examination. Ex.A3 is the certificate proving that he had cleared his +2 examination. It is submitted that the deceased was running a mobile/cell phone shop in the name and style of Kalra Communication at Barnala Chowk, Sangrur and was earning ₹15,000/- per month. Therefore, his income has been wrongly assessed by the learned Tribunal. It is, however, fairly stated that 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**, increment on account of future prospects have to be afforded at the rate of 40% and not at the rate of 50% as assessed by the learned Tribunal. Compensation under the conventional heads, it is stated, is meagre. It is, thus, prayed that compensation awarded to the claimants be reworked accordingly.

Learned counsel for the respondents while refuting the arguments raised by learned counsel for the appellants 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 19.08.2014 be upheld.

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

There is no dispute that Mohit Kumar lost his life in a motor vehicle accident, which took place on 27.07.2012 caused due to the rash and negligent driving of bus bearing registration No. RJ-31-PA-1220 by respondent No.1. Finding of the learned Tribunal on this issue has attained finality. It is not disputed that the deceased was 21 years old at the time of

the accident. It is not denied that the deceased had cleared his +2 examination. Ex.A3 is the certificate proving that he had cleared his +2 examination. Though there is no clear and cogent evidence to prove the exact income of the deceased, it is not considered justified to equate the deceased with an unskilled labourer. Income of the deceased, who had admittedly cleared his +2 examination, is assessed as ₹7,000/- per month. 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 40% (₹2800/-) is afforded, as the deceased was 21 years old at the time of accident, which takes income of the deceased to ₹9800/- 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, 50% deduction is to be applied as the deceased was bachelor, thereby rendering income of the deceased to be ₹4900/- (9800-4900). Applying a multiplier of 18, dependancy of the claimant is assessed as ₹10,58,400/- (₹4900x12x18). Appellant No. 1 is entitled to ₹15,000/- each for funeral expenses and loss of estate. In terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Limited versus Nanu Ram Alias Chuhru Ram and others** (Civil Appeal No. 9581 of 2018) and decision dated 14.03.2019 of this Court in FAO No. 2011 of 2016 (Shri Ram General Insurance Company Limited versus Beant Kaur and others), appellant No. 1 is also entitled to ₹40,000/- on account of loss of filial consortium.

Appellant No. 1 is, thus, entitled to total compensation of ₹11,28,400/- detailed as under:-

Loss of dependency (₹4900x12x18)	₹10,58,400/-
Loss of filial consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹11,28,400/-

Appellant is 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. The amount of compensation already awarded to appellant No. 1, needless to say, shall stand deducted from the amount calculated as above.

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

April 02, 2019
rts

(Lisa Gill)
Judge

Whether speaking/reasoned :

Whether reportable :

Yes/No

Yes/No