IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

FAO No. 1310 of 2015

Date of Decision: September 23 , 2019.

Rani and another ...... APPELLANT (s)

Versus

Jagtar Singh and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Ashok Bhardwaj, Advocate
for the appellants.

Mr. R.K.Shukla, Advocate
for respondent No.1.

Mr. Sukhdarshan Singh, Advocate
for respondent No.3 – Insurance company

*****

LISA GILL, J.

This appeal has been filed by the claimants seeking enhancement of compensation awarded to them by the learned Motor Accident Claims Tribunal, Patiala (for short, the 'Tribunal') vide impugned award dated 14.10.2014 on account of death of Shanky Kumar in a motor vehicle accident.

Brief facts necessary for the adjudication of the case are that, the claimants filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Shanky Kumar, who lost his life in a motor vehicle accident which took place on 01.03.2012. FIR No.37 dated 01.03.2012, under Sections 279/337/304A IPC, Police Station Civil Lines, Patiala was

OMKAR SINGH
2019.10.01 10:28
I attest to the accuracy and integrity of this document
High Court, Chandigarh

registered against respondent No.1-driver. It is pleaded that deceased-Shanky Kumar was working as an Electrician with M/s Hira Automobiles Ltd., Rajbaha Road, Patiala, earning a salary of ₹10,700/- per month. Compensation to the tune of ₹15 lakhs was prayed for.

Learned Tribunal on considering the facts and evidence on record concluded that the accident in question took place due to the rash and negligent driving of truck bearing registration No.PB-13-U-9813 by respondent No.1-Jagtar Singh. The deceased was held to be 24 years old. Learned Tribunal while assessing income of the deceased to be ₹5,700/- per month, awarded a total amount of ₹9,38,400/- to the claimants. Deduction to the extent of 50% was effected. Multiplier of 18 was applied. Increment at the rate of 50% on account of future prospects was afforded. ₹25,000/- was awarded towards funeral expenses.

Learned counsel for the appellants argues that income of the deceased has been wrongly assessed as ₹5,700/- per month i.e., merely the basic salary. Moreover, deduction of 50% has also been wrongly effected and compensation under the conventional heads is meagre. It is thus prayed that the amount of compensation awarded to the appellants be enhanced accordingly.

Per contra, learned counsel for respondent No.3-Insurance company refutes the abovesaid averments and submits that just and reasonable compensation has been awarded by the learned Tribunal, which does not call for any enhancement. Dismissal of the appeal is prayed for.

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

There is no dispute regarding death of Shanky Kumar in a motor

OMKAR SINGH
2019.10.01 10:28
I attest to the accuracy and
integrity of this document
High Court, Chandigarh

vehicle accident which took place on 01.03.2012 due to the rash and negligent driving of the offending vehicle bearing registration No. PB-13-U-9813 respondent No.1-Jagtar Singh. Finding of the learned Tribunal in this regard has attained finality.

It is a matter of record that the deceased was 24 years old at the time of his death and he was working as an Accessory Technician with M/s Hira Automobiles Ltd.. Nature of his employment was permanent. As per the Salary Certificate (Ex.PW3/8), the deceased is stated to be drawing a salary of ₹10,596/- per month, which is duly detailed as hereunder:-

Basic Salary	:	5700/-
HRA	:	700/-
Bonus	:	500/-
ESI	:	112/-
P.F.	:	684/-
Incentives	:	2900/-

PW3 Kunwar Bahadur Singh, Accessory In-charge of Hira Automobiles has proved the record of the employment of the deceased with the company in question. PW3 Kunwar Bahadur Singh has proved the salary register (Ex.PW3/3) pertaining to the deceased, ESI Card (Ex.PW3/4), copy of EPF (Ex.PW3/5 and Ex.PW3/6), copy of the statement of account (Ex.PW3/7) and salary slip (Ex.PW3/8). Perusal of the record reveals that the learned Tribunal has erred in assessing income of the deceased as ₹5,700/- per month. His income has to be assessed as ₹7,196/- which includes the basic salary, HRA, ESI and PF. Bonus and incentives are admittedly not the regular monthly components of the salary of the deceased. Income of the deceased is thus assessed as ₹7,196/- per month.

It is a matter of record that the deceased was 24 years old at the time

OMKAR SINGH
2019.10.01 10:28
I attest to the accuracy and
integrity of this document
High Court, Chandigarh

of his death is a permanent employee of the M/s Hira Automobiles Ltd., therefore, increment at the rate of 50% on account of future prospects has been rightly afforded by the learned Tribunal in tune with the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others**, ***2017(16) SCC 680***. There is merit in the argument raised by learned counsel for the appellants that 50% deduction should not be effected in this case. The claimants are, admittedly widowed mother and unmarried sister of the deceased, who were dependant upon the deceased. Learned counsel for the Insurance company is unable to point out any evidence to the contrary. Therefore, deduction to the extent of 1/3rd needs to be applied in this case as per the judgment of the Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another**, ***2009(3) RCR (Civil) 77***. Multiplier of 18 has been rightly applied. Instead of ₹25,000/- towards funeral expenses, the claimants are entitled to ₹15,000/- besides, another sum of ₹15,000/- towards loss of estate. Appellant No.1, mother of the deceased, is held entitled to ₹40,000/- on account of loss of filial consortium in terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors.**, ***2018(4) RCR(Civil) 333*** as well as decision dated 14.03.2019 of this Court in FAO No.2110 of 2016 (Shri Ram General Insurance Company Ltd. v. Beant Kaur and others).

Claimants are, thus, entitled to compensation which is re-worked as under:-

Sr.No.	*Heads of Claim*	*Amount*
1.	Income	7,196 per month i.e., 86,352 per annum

OMKAR SINGH
2019.10.01 10:28
I attest to the accuracy and
integrity of this document
High Court, Chandigarh

2.	Total income after addition at the rate of 50% on account of future prospects	86,352 + (86,352 **x** 50%) = 1,29,528
3.	Deduction of 1/3rd on account of personal expenses	1,29,528 – (1,29,528 **x** 1/3) = 86,352
4.	Dependancy after applying a multiplier of 18	(86,352 **x** 18) = 15,54,336
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of filial consortium to appellant No.1	40,000
	Grand Total	₹16,24,336/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Claimants shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum, from the date of filing of the petition till realization. Manner of disbursement shall remain the same as determined by the learned Tribunal.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

September 23 , 2019.
'om'

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

OMKAR SINGH
2019.10.01 10:28
I attest to the accuracy and
integrity of this document
High Court, Chandigarh