IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 4134 of 2013 (O&M)
Date of decision : January 24, 2019

Paramjit Kaur and others .....Appellants

Versus

Sandeep Singh and others ....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Vivek Suri, Advocate
for the appellants.

Mr. Labh Singh Bhangu, Advocate
for respondents No. 1 and 2.

Mr. Ashish Yadav, 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 Balkar Singh vide award dated 10.12.2012.

Brief facts necessary for adjudication of the case are that the claimants i.e. widow, son and parents of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Balkar Singh on 14.05.2011 in a motor vehicle accident caused due to driving of the offending vehicle Tractor Sonalika bearing registration No. PB-42A-6232 by respondent No.1 in a rash and negligent manner. It was averred that on 14.05.2011 Balkar Singh was going from Bahadurgarh to Rajpura on a motor cycle bearing registration No. PB-23D-3379. When he reached just ahead of village Bathlan in front of brick kiln, offending vehicle Tractor Sonalika bearing registration No. PB-42A-6232 came from behind and struck against the motorcycle of the deceased. As a result thereof, Balkar Singh fell down and received multiple grievous injuries. He was taken to Rajindra Hospital, Patiala but succumbed to his injuries on the way.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place on 14.05.2011 due to rash and negligent driving of the offending Tractor Sonalika bearing registration No. PB-42A-6232 by respondent No. 1. Learned Tribunal awarded a sum of ₹4,73,000/- 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. Income of the deceased was assessed as ₹4,000/- per month. The age of the deceased was taken to be 43 years old as per the Post Mortem Report (Ex.P2). Deduction of 1/3rd was effected, keeping in view the number of dependants. Multiplier of 14 was applied as the deceased was 43 years old at that time. Additionally, a sum of ₹10,000/- on account of loss of consortium was awarded and a sum of ₹10,000/- on account of loss of love and affection besides a sum of ₹5,000/- on account of funeral expenses and last rites.

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

Learned counsel for the appellants submits that income of the deceased has been wrongly assessed as ₹4,000/- per month whereas it is proved on record that he was working as a Foreman earning a salary of ₹10,000/- therefrom. He was also an agriculturist. Thus, he was earning a sum of ₹20,000/- per month. It is further submitted 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 at the rate of 25% should be afforded. It is submitted that though multiplier of 14 has been correctly applied, compensation under the conventional heads is meagre**.** It is, thus, prayed that compensation awarded to the claimants be reworked accordingly.

Learned counsel for the respondent - insurance company 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 10.12.2012 be upheld.

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

There is no dispute that Balkar Singh lost his life in a motor vehicle accident, which took place on 14.05.2011 caused due to the rash and negligent driving of Tractor Sonalika bearing registration No. PB-42A-6232 driven by respondent No.1. Finding of the learned Tribunal on this issue has attained finality. It is also not disputed that the deceased was 43 years old at the time of the accident.

The deceased is claimed to be earning a sum of ₹20,000/- i.e. a salary of ₹10,000/- by working as a Foreman on a Combine and rest from agriculture. PW3 - Avtar Singh tendered his evidence by way of affidavit (Ex.PW3/A) and testified that the deceased Balkar Singh was doing the job of a Foreman on his combine. PW3 doubtlessly has not brought the registration certificate of his Combine and it is indeed admitted that the work in question is seasonal. However, keeping in view the facts and circumstances of the case, it is considered appropriate to assess the income of the deceased at par with that of a skilled labourer in the State of Punjab i.e. ₹4,571/- per month at the time of the accident. Income of the deceased is, thus, assessed as ₹4,571/- per month instead of ₹4,000/- 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 25% (₹1143/-) has to be afforded, as the deceased was 43 years old at the time of accident, which takes income of the deceased to ₹5,714/- 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 as number of dependants is four (4), thereby rendering income of the deceased to be ₹4286/-(5714-1428). Applying a multiplier of 14, dependancy of the claimants is, therefore, assessed as ₹7,20,048/- (₹4286x12x14). The claimants are also entitled to ₹15,000/- each for funeral expenses 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,** appellant No. 2 i.e. son of the deceased are entitled to ₹40,000/- on account of loss of parental consortium and appellants No. 3 and 4 to ₹40,000/- each on account of loss of filial consortium. Claimants are, thus, entitled to total compensation of ₹9,10,048/- detailed as under:-

Loss of dependency (₹4286x12x14)	₹7,20,048/-
Loss of spousal consortium	₹40,000/-
Loss of parental consortium	₹40,000/-
Loss of filial consortium (40,000 x 2)	₹80,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹9,10,048/-

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above. Appellants shall be 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 is disposed of.

(Lisa Gill)
Judge

January 24, 2019
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No