

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

FAO No. 1110 of 2016 (O&M)

Date of decision : November 27, 2019

Rajwinder Kaur and others

.....Appellants

Versus

Bharat Bhushan and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. S.K. Choudhary, Advocate
for the appellants.

Service upon respondents No. 1 and 2
dispensed with vide order dated 30.05.2019.

Mr. Vinod Gupta, Advocate
for respondent No. 3.

LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Pathankot (hereinafter referred to as the 'Tribunal') on account of death of Amarpal Singh vide award dated 06.10.2015.

Brief facts necessary for adjudication of the case are that the appellants/claimants i.e. widow, children and mother of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Amarpal Singh on 16.06.2010, in a motor vehicle accident, caused due to rash and negligent driving of the offending vehicle, i.e. Bus bearing registration No. JK-02-AD-0945, by respondent No.1.

Learned Tribunal on considering the evidence on record, facts and circumstances concluded that Amarpal Singh died in the accident which took place on 16.06.2010 due to rash and negligent driving of the offending Bus bearing registration No. JK-02-AD-0945 by respondent No.1. Learned

Tribunal while assessing income of the deceased to be ₹13,002/- per month (rounded off to ₹13,000/-) awarded a sum of ₹13,69,000/- with interest at the rate of 6% per annum from the date of filing of the claim petition till date of actual realisation of the award. Deduction of 1/3rd was effected. Multiplier of 11 was applied as the deceased was 54 years old at that time. Additionally, a sum of ₹1,00,000/- on account of loss of consortium was awarded and a sum of ₹1,00,000/- on account of loss of love and affection besides a sum of ₹25,000/- on account of funeral expenses.

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

Learned counsel for the appellants submits that there is no dispute regarding income of the deceased assessed as ₹13,002/- (rounded off to ₹13,000/-) per month by the learned Tribunal, however, 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 should be afforded. 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 06.10.2015 be upheld.

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

There is no dispute that Amarpal Singh lost his life due to injuries received by him in a motor vehicle accident, which took place on 16.06.2010 due to the rash and negligent driving of Bus bearing registration No. JK-02-AD-0945, by respondent No.1. Finding of the learned Tribunal on this issue has attained finality.

There is no dispute regarding income of the deceased to be ₹13,002/- per month (rounded off to ₹13,000/-) as assessed by the learned Tribunal. It is a matter of record that the deceased was employed as a Conductor with the Punjab Roadways, Pathankot receiving a salary of ₹13,002/- per month, as per the salary certificate, Ex.P3, which is duly proved by AW3 Shamsheer Singh. Income of the deceased, as assessed by the learned Tribunal, is thus upheld as ₹13,000/- per month. In view of the guidelines of the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), increment on account of future prospects at the rate of 15% (₹1950/-) is afforded, as the deceased was 54 years old at the time of accident, which takes income of the deceased to ₹14,950/- 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 1/3rd has been wrongly effected whereas it should be 1/4th as number of dependants is four (4), thereby rendering income of the deceased to be ₹11213/-(14950-3737). Applying a multiplier of 11, dependancy of the claimants is assessed as ₹14,80,116/- (₹11213x12x11). The claimants are also entitled to ₹15,000/- each for funeral expenses (instead of ₹25,000) and loss of estate. The claimant widow is entitled to ₹40,000/- on account of loss of consortium (instead of ₹1,00,000/-). The claimants are not entitled to ₹1,00,000/-

towards loss of love and affection. 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 appellant No. 4 to ₹40,000/- on account of loss of filial consortium. Claimants are, thus, entitled to total compensation of ₹16,30,116/- detailed as under:-

Loss of dependency (₹11213x12x11).	₹14,80,116/-
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	₹16,30,116/-

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% per annum on the entire amount (instead of 6%) 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

November 27, 2019
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