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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 1229 of 2016 (O&M)
Date of Decision: July 17, 2019

Beena and others

..... Appellants(s)

Versus

Sushil Kumar and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Vijay Sangwan, Advocate
for the appellants.

Service upon respondents no.1 & 2 dispensed with vide order dated 24.08.2018.

Ms. Sheenu Sura, Advocate
for respondent no.3-insurance company.

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LISA GILL, J. (oral)

This appeal has been filed seeking enhancement of the compensation awarded to the claimants vide award dated 23.03.2015, passed by learned Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as 'the Tribunal).

Appellants-claimants who are the widow, minor child and mother of the deceased Mahender, filed a petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation on account of death of Mahender due to the injuries suffered by him in the motor vehicle accident,

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which took place on 05.09.2014. It is pleaded that Mahender Singh was working with one Dev Trading Company on a monthly salary of Rs.16,000/- and was also earning an additional amount of Rs.20,000/- per month from puncture repair work etc., which he used to do on a part time basis.

Learned Tribunal on considering the evidence on record concluded that the accident in question indeed took place on 05.09.2014 due to the rash and negligent driving of the offending car bearing registration No. HR-35H-9090, by its driver Sushil Kumar-respondent no.1. Learned Tribunal while assessing the income of the deceased to be Rs.16,000/- per month on the basis of income-tax returns of the deceased for the year 2014-2015 (Ex. PX), awarded a sum of Rs.20,97,000/- as compensation, which is detailed as under:-

Sr. No.	**Heads**	**Calculations**
1.	Income	1,92,000 per annum
2.	Income after deducting 1/4th as personal living expenses of the deceased	1,92,000 - 48,000 = 1,44,000/-
3.	Dependency after applying multiplier of 13	18,72,000/-
4.	Loss of consortium to appellant no.1	1,00,000/-
5.	Loss of love and affection to appellants no.2 to 4	1,00,000/-
6.	Funeral expenses	25,000/-
	Total	**20,97,000/-**

Present appeal has been filed seeking enhancement of the aforesaid compensation.

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Learned counsel for the appellants while not disputing the income as assessed by the learned Tribunal, submits that increment on account of future prospects should be awarded. It is fairly stated that compensation under the conventional heads be re-worked in terms of the judgment of Hon'ble Supreme Court **National Insurance Company Limited v. Pranay Sethi and others,** ***2017(16) SCC 680*** and ***Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors.*** **2018(4) RCR Civil 333.** It is thus prayed that compensation be enhanced.

Learned counsel for the insurance company, however, refutes the above said averments and submits that just and reasonable compensation has already been afforded to the appellants. Dismissal of the appeal is prayed for.

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

As noticed above, there is no dispute regarding income of the deceased to be Rs.16,000/- per month, as assessed by the learned Tribunal on the basis of the income-tax returns. Keeping in view the judgment of the Hon'ble supreme Court in ***National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680,*** 25% increment has to be afforded on account of future prospects, as the deceased was admittedly 46 years old at the time of accident, his date of birth being 30.05.1968. Deduction of 1/4th was correctly effected by learned Tribunal. Multiplier of 13 was also correctly applied by learned Tribunal. Instead of a sum of Rs.25,000/- awarded towards funeral expenses, the appellants are entitled to

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a sum of Rs.15,000/- each towards funeral expenses and loss of estate. Instead of Rs.1,00,000/- awarded by the learned Tribunal towards loss of consortium, appellant no.1 is entitled to a sum of Rs.40,000/- on account of loss of spousal consortium. Appellants no.2 to 4 are also entitled to a sum of Rs.40,000/- towards loss of parental consortium instead of Rs.1,00,000/- awarded by the learned Tribunal towards loss of love and affection. Appellant no.5 is entitled to a sum of Rs.40,000/- on account of loss of filial consortium. Reference in this regard can gainfully be made to 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-2011-2016, title ***Shri Ram General Insurance Company Ltd. Vs. Beant Kaur and others***.

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

Sr. No.	**Heads**	**Calculations**
1.	Income	16,000 x 12 = 1,92,000/- per annum
2.	Income after deducting 1/4th as personal living expenses of the deceased	1,92,000 - 48,000 = 1,44,000/-
3.	Total income after addition at the rate of 25% on account of future prospects	1,44,000 + 36,000 (1,44,000 x 25%) = 1,80,000/-
4.	Dependency after applying multiplier of 13	23,40,000/-
5.	Loss of estate	15,000/-
6.	Funeral expenses	15,000/-
7.	Loss of consortium to appellant no.1	40,000/-

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8.	Loss of parental consortium to appellant no.2	40,000/-
9.	Loss of filial consortium to appellants no.3 & 4	40,000/-
	Total	**24,90,000/-**

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 at the rate of 7.5% per annum on the enhanced amount, from the date of filing of the claim petition till realization. Ratio of apportionment as well as manner of disbursement of compensation amongst the claimants as determined by the learned Tribunal shall remain the same.

Appeal is accordingly disposed of.

July 17, 2019. **(LISA GILL)**
Sunil **JUDGE**

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