IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O. No.2853 of 2015 (O&M)
Date of Decision: 04.02.2019

Smt. Krishna Devi and another

….. Appellants.

Versus

Rakesh and others ...... Respondents.

AND

F.A.O. No.2854 of 2015(O&M)

Maya Devi and another ......Appellants.

Versus

Rakesh and others ...... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Ms. Bhagyashri, Advocate
for Mr. Naveen.S. Bharadwaj, Advocate
for the appellants (in both the appeals).

Mr. J.C.Malik, Advocate
for respondent no.1 (in both the appeals).

Ms. Manpreet Kaur, Advocate
for Mr. S.K.Mahajan, Advocate
for respondent no.2. (in both the appeals).

Mr. Ajay Singla, Advocate
for respondent no.3-Insurance Company (in both the appeals)

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LISA GILL, J.

This judgement shall dispose of FAO No. 2853 of 2015 and FAO No. 2854 of 2015 as both these appeals arise from a common award dated 19.02.2015, passed by the learned Motor Accident Claims Tribunal, Rewari (for short 'tribunal').

Appellant-claimants in FAO No. 2853 of 2015, are the parents of the deceased-Sonu, seeking enhancement of the compensation awarded by the learned tribunal on account of his death in a motor vehicle accident which took place on 14.06.2013.

Appellant-claimants in FAO No. 2854 of 2015, are the parents of the deceased-Devender, seeking enhancement of the compensation awarded by the learned tribunal on account of his death in a motor vehicle accident. For the sake of convenience, facts are being extracted from FAO No. 2853 of 2015.

As per the averments in the claim petitions under Section 166 of the Motor Vehicles Act (for short 'M.V.Act'), Sonu and Devender, on 14.06.2013, were going to their village on motorcycle bearing registration no. HR-43-A-9949. The same was driven by Sonu and Devender was riding pillion. At about 3.00.p.m., when they reached near village Khera Tharu, a truck bearing registration no. HR-46-B-9569 came from the side of village Bahala in a rash and negligent manner and struck against their motorcycle. As a result thereof, both Sonu and Devender received fatal injuries and died at the spot. FIR No.128 dated 14.06.2013, under Sections 279, 304-A IPC was registered at Police Station Sahlawas, in this respect.

Learned Tribunal concluded that the accident in question was caused due to rash and negligent driving of the offending vehicle by respondent no.1-Rakesh. Said finding of the learned tribunal has attained finality.

Income of Sonu (deceased) was assessed as ₹6000/- per month. Multiplier of 7 was applied by the learned tribunal. A sum of ₹10,000/- was awarded towards loss of estate and ₹25,000/- was awarded towards funeral expenses. Deduction of 50% was applied. Learned tribunal awarded a sum of ₹2,87,000/- along with interest @ 7.5% per annum from the date of filing of the claim petition till realisation of the amount to the claimants.

Income of Devender (deceased) was assessed as ₹6750/- per month. Multiplier of 13 was applied by the learned tribunal. A sum of ₹10,000/- was awarded towards loss of estate and ₹25,000/- was awarded towards funeral expenses. Deduction of 50% was applied. Learned tribunal awarded a sum of ₹5,61,500/- along with interest @ 7.5% per annum from the date of filing of the claim petition till realisation of the amount to the claimants.

FAO No. 2853 of 2015.

Learned counsel for the appellants argues that increment on account of future prospects has not been afforded and multiplier has also been wrongly applied. Meagre amount under conventional heads has been afforded by the learned tribunal. It is thus prayed that this appeal be allowed and the compensation awarded to the appellants be enhanced.

Learned counsel for respondent no.3-Insurance Company, while refuting the above arguments, submits that compensation has been reasonably assessed by the learned tribunal and there is no scope for any enhancement. Learned counsel prays for dismissal of the appeal.

I have perused the file and heard learned counsel for the parties.

There is no dispute about the death of Sonu in the motor vehicle accident which took place on 14.06.2013 due to the rash and negligent driving of the offending vehicle by its driver-Rakesh. Deceased was admittedly 22 years old at the time of accident. His income has been correctly assessed as ₹6000/- per month by the learned tribunal. However, future prospects at the rate of 40% are required to be afforded in view of the judgement of the Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and Ors. 2017(4) R.C.R.(Civil) 1009.**

It is a settled position that multiplier has to be applied as per the age of the deceased and not of the claimants as has been done by the learned tribunal. The question regarding multiplier to be applied while assessing loss of dependancy i.e. whether it should be applied on the basis of the age of the claimant or the deceased is no longer res integra. The Hon'ble Supreme Court in **Munna Lal Jain v. Vipin Kumar Sharma, (2015) 6 SCC 347** has held that multiplier applied should be with reference to the age of the deceased and not of the parents/claimants. The deceased in this case was admittedly 22 years old and unmarried at the time of the accident, therefore, multiplier of 18 instead of 7 is to be applied in terms of the judgement of the Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and Anr. 2009 (3) R.C.R. (Civil) 77**. Deduction of 50% applied by the learned tribunal is maintained. However, the claimants are entitled to ₹15,000/- each for funeral expenses and loss of estate instead of ₹10,000/- and ₹25,000/- awarded on account of loss of estate and funeral expenses.

Furthermore, the claimant-appellants in terms of the judgement of Hon'ble Supreme Court in **Magma General Insurance Company Limited Vs. Nanu Ram @ Chuhuru Ram and others, 2018(4) R.C.R (Civil), 333**, are entitled to ₹40,000/- each for loss of filial consortium.

Compensation towards the claimant on account of death of

Sonu, is thus re-worked as under:-

1.	Total income of deceased	₹6000/- p.m.
2.	Deduction of 50% on account of personal expenses	₹6000/– (₹6000*50%=₹3000/-) = ₹3000/-
3.	Total income after addition of future prospects at the rate of 40%	₹3000/- (₹3000/-+ ₹1200/-) i.e. ₹4200/-
4.	Annual dependency after applying multiplier of 18	₹4200/- x 12 x 18= ₹9,07,200/-
5.	Filial consortium @ ₹40,000/- each	₹80,000/-
6.	Funeral expenses	₹15,000/-
7.	Loss of estate	₹15,000/-
	Total Compensation =	**₹10,17,200/-**

Claimants shall be entitled to interest on the enhanced compensation amount at the rate of 7.5% per annum from the date of filing of petition till realization. Needless to say the amount, if any, already disbursed to the claimants shall stand deducted. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants, shall enure.

FAO No. 2854 of 2015

Learned counsel for the appellants raises identical arguments as in FAO No. 2853 of 2015 and prays that this appeal be allowed and the compensation awarded to the appellants be enhanced.

Learned counsel for respondent no.3-Insurance Company, while refuting the above arguments, submits that compensation has been reasonably assessed by the learned tribunal and there is no scope for any enhancement. Learned counsel prays for dismissal of the appeal.

I have perused the file and heard learned counsel for the parties.

There is again no dispute about the death of Devender in the motor vehicle accident which took place on 14.06.2013 due to the rash and negligent driving of the offending vehicle by its driver-Rakesh. Deceased was admittedly 23 years old at the time of accident. His income has been correctly assessed as ₹6750/- per month by the learned tribunal. Future prospects at the rate of 40% are afforded in view of the judgement of the Hon'ble Supreme Court in **Pranay Sethi's** case **(Supra).**

In view of the judgement of the Hon'ble Supreme Court in **Munna Lal Jain's** case **(Supra)** multiplier has to be applied with reference to the age of the deceased and not of the parents. Devender (deceased) in this case was admittedly 23 years old and unmarried at the time of the accident, therefore, multiplier of 18 instead of 13 is to be applied in terms of the judgement of the Hon'ble Supreme Court in **Smt. Sarla Verma's** case **(Supra)**. Deduction of 50% applied by the learned tribunal is maintained. However, the claimants are entitled to ₹15,000/- each for funeral expenses and loss of estate instead of ₹10,000/- and ₹25,000/- awarded on account of loss of estate and funeral expenses.

Furthermore, the claimant-appellants in terms of the judgement of Hon'ble Supreme Court in **Magma General Insurance Company Limited (supra)**, are entitled to ₹40,000/- each for loss of filial consortium.

Compensation towards the claimant on account of death of Devender, is thus re-worked as under:-

1.	Total income of deceased	₹6750/- p.m
2.	Deduction of 50% on account of personal expenses	₹6750/– (₹6750*50%=₹3375/-) = ₹3375/-

3.	Total income after addition of future prospects at the rate of 40%	₹3375/- (₹3375/-+ ₹1350/-) i.e. ₹4725/-
4.	Annual dependency after applying multiplier of 18	₹4725/- x 12 x 18= ₹10,20,600/-
5.	Filial consortium @ ₹40,000/- each	₹80,000/-
6.	Funeral expenses	₹15,000/-
7.	Loss of estate	₹15,000/-
	Total Compensation =	**₹11,30,600/-**

Claimants shall be entitled to interest on the enhanced compensation amount at the rate of 7.5% per annum from the date of filing of petition till realization. Needless to say the amount, if any, already disbursed to the claimants shall stand deducted. 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, both the appeals are disposed of.

[LISA GILL]
Judge

04.02.2019
s.khan

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