IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 4590 of 2014
Date of Decision: July 05, 2019

Geeta ...... Appellants(s)

Versus

Kuldeep Kumar and another ..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Gaurav Sethi, Advocate
for the appellant.

None for respondent no.1.

Ms. Jasneet Mehra, Advocate for
Mr. L.M. Gulati, Advocate
for respondent no.2.

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LISA GILL, J. (oral)

This appeal has been filed seeking enhancement of the compensation awarded to the claimant on account of death of Varun vide award dated 21.12.2013, passed by learned Motor Accidents Claims Tribunal, Ambala (hereinafter referred to as 'the Tribunal).

The claimant-appellant who is the widowed mother of the deceased preferred the petition under Section 163-A of the Motor Vehicles Act, 1988 seeking compensation on account of the death of her son Varun, due to injuries received by him in a motor vehicle accident, which took place on 19.11.2012, due to the rash and negligent act/involvement of the canter bearing registration No. PB-11D-7732, by its driver Kuldeep Kumar - respondent no.1.

Learned Tribunal on considering the evidence on record and the facts and circumstances of the case concluded that Varun died due to the injuries received by him in the motor vehicle accident, which took place on 18/19.11.2012, due to the rash and negligent act/involvement of the canter bearing registration No. PB-11D-7732, by its driver Kuldeep Kumar-respondent no.1. Learned Tribunal assessed income of the deceased to be Rs.3,000/- per month and afforded a sum of Rs.2,23,000/- as compensation to the appellant-claimant, the detail of which is as under:-

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	3,000/- per month
2.	Income after deduction of 1/2 on account of personal and living expenses of the deceased	3000 - 1500 = 1500/-
3.	Income after applying multiplier of 11	1500 x 12 x 11 = Rs.1,98,000/-
4.	Funeral expenses, last rites, consortium and loss of estate	Rs.25,000/-
	Grand Total	**Rs.2,23,000/-**

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

Learned counsel for the appellant argues that multiplier of 11 has been wrongly applied while taking into consideration the age of the mother of the deceased. Multiplier of 17 should have been applied as the deceased was 30 years old. It is further submitted that he was driving a three-wheeler, earning a sum of Rs.3,300/- per month. It is fairly stated that the compensation under the conventional heads be re-worked in terms of the Second Schedule of the Act.

Learned counsel for respondent no.2 submits that respondent no.2 has not been held liable in this case. It is noticed that none has been appearing on behalf of respondent no.1 after 24.02.2016. Respondent no.1 is admittedly the owner of the canter in question as is mentioned in para 9 of the award dated 21.12.2013. I do not deem it appropriate to further defer hearing/decision of this appeal of the year 2014 due to non-appearance of the counsel for respondent no.1.

I have heard learned counsel for the appellant and respondent no.2 and have gone through the record.

There is no dispute regarding death of Varun, due to the injuries received by him in the motor vehicle accident, which took place on 18/19.11.2012, due to the negligent use/involvement of the canter bearing registration No. PB-11D-7732, by its driver Kuldeep Kumar-respondent no.1. Income of the deceased has been rightly assessed as Rs.3,000/- per month by the learned Tribunal. The question of the multiplier to be applied in a situation like the present, is no longer *res integra,* in view of the decision of the Hon'ble Supreme Court in ***Munna Lal Jain Vs. Vipin Kumar Sharma*, (2015) 6 SCC 347**. Multiplier has to be applied with reference to the age of the deceased and not of the claimant-parent. Thus, multiplier of 17 in terms of the Second Schedule of the Act has to be applied instead of 11. Deduction of 1/3rd has to be effected in terms of the Second Schedule which is a self-contained provision . Instead of a sum of Rs.25,000/- awarded on account of funeral expenses, consortium and loss of estate, the appellant is entitled to Rs.2,000/- for funeral expenses and Rs.2,500/- for loss of estate.

Appellant-claimant is, thus, entitled to compensation which is re-worked as under:-

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	3,000/- per month
2.	Income after deduction of 1/3rd on account of personal and living expenses of the deceased	3000 - 1000 = 2,000/-
3.	Income after applying multiplier of 17	2000 x 12 x 17 = Rs.4,08,000/-
4.	Funeral expenses	Rs.2,000/-
5.	Loss of estate	Rs.2,500/-
	Grand Total	**Rs. 4,12,500/-**

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. Ratio of apportionment as well as manner of disbursement amongst the claimants as determined by the learned Tribunal shall remain the same.

Appeal is accordingly disposed of.

July 05, 2019. **(LISA GILL)**
Sunil **JUDGE**

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