IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

FAO No. 5145 of 2014

Date of Decision: February 11 , 2019.

Baljit Kaur and others ...... APPELLANT (s)

Versus

Harbans Singh and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Ajay Kumar Sharma, Advocate
for the appellants.

Mr. Rajbir Singh, Advocate
for respondent No.3 – Insurance company

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LISA GILL, J.

This appeal has been filed by the claimants seeking enhancement of compensation awarded to them by the learned Motor Accident Claims Tribunal, Patiala (for short, the 'Tribunal') vide impugned award dated 13.01.2014 on account of death of Satnam Singh in a motor vehicle accident.

Brief facts necessary for the adjudication of the case are that, the claimants who are the widow, children and mother of Satnam Singh (deceased) filed a petition under Section 166 of the Motor Vehicles Act (for short, the 'Act') seeking compensation on account of death of Satnam Singh, who lost his life in a motor vehicle accident which took place on 08.04.2012. FIR No.57 dated 09.04.2012, under Sections 279/304A IPC (Ex.P2) was registered against respondent No.1 at Police Station Chappar, District Churu at the instance of

PW2 Bhagwant Singh. Learned Tribunal on consideration of the facts and evidence on record concluded that the accident in question took place due to the rash and negligent driving of truck bearing registration No. HP-12D-7697 by respondent No.1-Harbans Singh. This finding of the learned Tribunal has attained finality.

The deceased was 40 years old at the time of the accident. Learned Tribunal while assessing income of Satnam Singh (deceased) as ₹6,000/- per month, awarded a total sum of ₹9,35,000/- to the claimants. Deduction to the extent of 1/4th on account of personal expenses was effected and multiplier of 15 was applied. ₹25,000/- was awarded towards funeral expenses, besides, a sum of ₹1,00,000/- to appellant No.1-widow on account of loss of consortium. Aggrieved therefrom, the present appeal has been filed by the claimants.

Learned counsel for the appellants submits that income of the deceased has been wrongly assessed as ₹6,000/- per month by the learned Tribunal, whereas the deceased-Satnam Singh was a transporter owning two trucks, besides, being engaged in agriculture. He was the owner of about five acres of land. Increment on account of future prospects has not been afforded. It is however submitted that the claimants have no objection for compensation under the conventional heads to be reworked. It is thus prayed that the total amount of compensation awarded to the appellants be enhanced accordingly.

Learned counsel for respondent No.3-Insurance company refutes the abovesaid averments, while submitting that there is no documentary evidence regarding income of the deceased. At best, the claimants would be entitled to loss of managerial skills. Land, in question, would still belong to the legal representatives of the deceased. Just and reasonable compensation has been awarded by the learned Tribunal which does not call for any enhancement. Dismissal of the appeal is prayed for.

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

It is not in dispute that Satnam Singh lost his life in a motor vehicle accident which took place on 08.04.2012 due to the rash and negligent driving of the offending truck bearing registration No. HP-12D-7697 by respondent No.1-Harbans Singh. Neither is there a dispute regarding liability of the Insurance company. Satnam Singh (deceased) was 40 years old at the time of the accident. He is claimed to be an agriculturist and a transporter. It is proved on record that Satnam Singh was the owner of two trucks. Copies of the Registration Certificates of both the trucks are available on record as Ex.P8 and P9. The said trucks were financed and as per PW1 Baljit Kaur, widow of the deceased, the said trucks were taken back by the financers after the death of her husband as premium could not be paid. Satnam Singh is survived by his widow, four children (three of them being minor and one 21 years old daughter), besides, an aged mother. Needless to say, Satnam Singh (deceased) was not only supporting his family, but also paying the premium of said two trucks. Learned Tribunal has thus, erred in assessing income of the deceased as ₹6,000/- per month. Keeping in view the fact that Satnam Singh (deceased) was proved to be the owner of two trucks, though under finance, it is considered just and expedient to assess his income as ₹15,000/- per month.

Addition in income at the rate of 25% on account of future prospects has to be afforded in terms of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others**, ***2017(16) SCC 680***. Deduction to the extent of 1/4th has been rightly effected towards personal expenses in tune with the guidelines laid down by the Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another**, ***2009(3) RCR (Civil) 77***. Multiplier of 15 has been correctly applied as the deceased was 40 years old at the time of the accident. Instead of ₹25,000/- towards funeral expenses, the claimants are entitled to ₹15,000/- each on account of funeral expenses and loss of estate. Instead of ₹1,00,000/-, appellant No.1-widow is entitled to a sum of ₹40,000/- on account of loss of consortium. As the deceased is also survived by four children and a widow mother, it is considered appropriate to award a sum of ₹1,00,000/- to the four children and mother on account of loss of consortium (parental and filial) in terms of the judgment of the Hon'ble Supreme Court in **Vimla Devi and others v. National Insurance Company Ltd. and another**, ***2019(1) RCR(Civil) 86***.

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

Sr.No.	*Heads of Claim*	*Amount*
1.	Income	15,000 p.m. i.e. ₹1,80,000/- per annum
2.	Total income after addition at the rate of 25% on account of future prospects	1,80,000 + (1,80,000 **x** 25%) = 2,25,000
3.	Net income after 1/4th deduction on account of personal expenses	2,25,000 – (2,25,000 **x** 1/4) = 1,68,750
4.	Total dependancy after applying a multiplier of 15	(1,68,750 **x** 15) = 25,31,250
5.	Loss of estate	15,000
6.	Funeral expenses	15,000

7.	Loss of spousal consortium @40,000 to appellant No.1	40,000
8.	Loss of parental/filial consortium to appellants No.2 to 6	1,00,000
	Grand Total	₹27,01,250/-

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 entire 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.

(LISA GILL)
JUDGE

February 11 , 2019.
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No