IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO- 2573-2016 (O&M)
Date of Decision: April 29, 2019

Reena and another

...... Appellants(s)

Versus

Ram Niwas and others

..... Respondent(s)

with

FAO- 4528-2016 (O&M)

Dayawanti

...... Appellants(s)

Versus

Ram Niwas and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Sant Lal Barwala, Advocate
for the appellants.

Mr. Sanjeev Kodan, Advocate
for respondent no.3 – insurance company.

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LISA GILL, J.(oral)

This order shall dispose of FAO-4528-2016 (Dayawanti Vs. Ram Niwas and others) as well as FAO-2573-2016 (Reena and another Vs. Ram Niwas and others) as both the above noted appeals arise out of award dated 10.12.2015, passed by the learned Motor Accident Claims Tribunal, Hisar (hereinafter referred to as 'the Tribunal).

Brief facts necessary for the adjudication of the case are that a claim petition under Section 166 of the Motor Vehicles Act, 1988 was filed by the claimant – widow and minor daughter of Satyawan deceased claiming compensation on account of his death in a motor vehicle, which took place on 24.01.2015, due to the rash and negligent driving of the offending tractor bearing registration No. HR-39C-0251, by its driver Ram Niwas - respondent no.1. The deceased was claimed to be 30 years old, running a ready-made cloth shop, earning a sum of Rs.35,000/- per month. Mother of the deceased was arrayed as respondent no.4 in the claim petition.

FAO-2573-2016 has been filed by the widow and minor daughter of the deceased and FAO-4528-2016 has been filed by the mother of the deceased, seeking enhancement of the compensation awarded by the learned Tribunal.

Learned Tribunal on considering the evidence on record, facts and circumstances concluded that the accident in question took place due to the rash and negligent driving of the offending vehicle by its driver Ram Niwas - respondent no.1. Finding of the learned Tribunal on this issue has attained finality as there is no challenge to the same. Learned Tribunal while accepting the deceased to be 40 years old, observed that there is no specific documentary evidence on record to prove the exact income of the deceased and assessed his income to be Rs.6,600/- per month and awarded a sum of Rs.10,62,927/-, the detail of which is as under:-

Sr.No.	***Heads of Claim***	***Amount***
1.	Income # 6,600 x 12	79,200/- per annum
2.	Income after deducting 1/3rd on account of personal and living expenses of deceased	79,200 – 1/3 = 52,800/-
3.	Total dependency after applying a multiplier of 17	52,800 **x** 17 = 8,97,600/-
4.	Transportation and funeral expenses	10,000/-
5.	Medical bills	55,327/-
6.	Loss of consortium to claimant no.1	1,00,000/-
	Grand Total	**Rs.10,62,927/-**

Aggrieved therefrom appellants have filed both these appeals seeking enhancement of the compensation awarded to them by the learned Tribunal.

Learned counsel for the appellants submits that increment on account of future prospects should be afforded. Compensation on account of funeral expenses and loss of estate should also be enhanced, though, it is fairly stated that the compensation on account of loss of consortium may be re-worked in terms of the judgments of Hon'ble Supreme Court in **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**. Enhancement of compensation is thus prayed for.

Learned counsel for the insurance company refutes the above said arguments while submitting that just and reasonable compensation has been awarded by the learned Tribunal, which calls for no enhancement. It is submitted that minimum wage of a labourer in the State of Haryana at the time of accident i.e. 24.01.2015 was Rs.5,547/- per month as per Notification dated 01.01.2014. Dismissal of this appeal is prayed for.

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

There is no dispute regarding the deceased being 30 years old at the time of the accident. It is claimed that he was running a ready-made cloth shop earning a sum of Rs.35,000/- per month. PW-1 Reena, widow of the deceased has specifically deposed that the deceased was running a ready-made clothes shop in the village. Though, there is no documentary evidence on record to prove the exact income of the deceased to be Rs.35,000/- per month, I do not find any infirmity in the assessment of the income of the deceased to be Rs.6,600/- per month by the learned Tribunal in the given facts and circumstances of the case. In terms of the judgment of Hon'ble Supreme Court in ***National Insurance Company Limited v. Pranay Sethi and others*, *2017(16) SCC 680***, 40% increment towards future prospects has to be afforded. Deduction of 1/3rd was correctly effected by learned Tribunal. As the deceased was admittedly 30 years old at the time of the accident, multiplier of 17 was correctly applied by learned Tribunal. Claimants are entitled to a sum of Rs.15,000/- each on account of funeral expenses and loss of estate instead of Rs.10,000/- awarded by the learned Tribunal towards transportation charges and funeral ceremony. Appellant no.1 - wife is entitled to Rs.40,000/- instead of Rs.1,00,000/- towards loss of consortium. Additionally, minor child and mother of the deceased are also entitled to a sum of Rs.40,000/- each towards loss of parental and filial consortium, respectively. 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 of Claim***	***Amount***
1.	Income # 6,600 x 12	79,200/- per annum
2.	Income after deducting 1/3rd on account of personal and living expenses of deceased	79,200 – 1/3 = 52,800/-
3.	Total income after addition at the rate of 40% on account of future prospects	52,800+21,120 (52,800 x 40%) = 73,920/-
4.	Total dependency after applying a multiplier of 17	73,920 x 17 = 12,56,640/-
5.	Funeral expenses	15,000/-
6.	Loss of estate	15,000/-
7.	Loss of consortium to appellant no.1	40,000/-
8.	Loss of parental consortium to child	40,000/-
9.	Loss of filial consortium to mother	40,000/-
	Grand Total	**Rs.14,06,640/-**

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Claimants are 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.

In view of the discussion as above, both the appeals are disposed of.

April 29, 2019.   **(LISA GILL)**
Sunil   **JUDGE**

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