IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 3730 of 2015
Date of Decision: April 22, 2019

Suresh Kumar and others
...... Appellants(s)

Versus

Subhash Chand and others ..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

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

Mr. Aman Mittal, Advocate for
Mr. Amrinder Singh Sidhu, Advocate
for respondent no.3-insurance company.

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LISA GILL, J. (oral)

This appeal has been filed seeking enhancement of compensation awarded to the claimants vide award dated 10.02.2015, passed by learned Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as 'the Tribunal) on account of death of Ram Kishan. Appellant no.1 was the father of the deceased and has since passed away.

The claimants preferred a petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act) seeking compensation on account of death of Ram Kishan son of appellant no.1, brother and grand son of appellants no.2 & 3, respectively. Learned Tribunal on considering the evidence on record concluded that Ram Kishan died due to injuries received by him in the motor vehicle accident, which took place on 03.05.2014, due to the rash and negligent driving of the offending motorcycle bearing registration No. HR-35-H-5390, by its driver Subhash Chand-respondent no.1. Learned Tribunal while assessing income of the deceased to be Rs.8,200/- per month, with reference to the Minimum Wages Act, awarded a sum of Rs.6,40,400/- as compensation to the appellants. The same is detailed as under:-

Sr. No.	**Heads**	**Calculations**
1.	Gross income	8,200/-
2.	Income after deducting 50% as personal living expenses	8,200 - 4,100 = 4,100/-
3.	Compensation after applying multiplier of 12	4,100 x 12 x 12 = 5,90,400/-
4.	Compensation on account of transportation and last rites	20,000/-
5.	Loss of love and affection	30,000/-
	Total	**6,40,400/-**

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

Learned counsel for the appellants argues that no compensation has been afforded towards future prospects and multiplier of 12 has been wrongly applied as the deceased was admittedly 20 years old at the time of accident. It is prayed that compensation under the conventional heads is also meagre. It is thus prayed that compensation awarded by the learned Tribunal be enhanced.

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. However, it is not denied that the deceased was 20 years old at the time of accident.

I have heard learned counsel for the parties.

There is no dispute regarding the age or income of the deceased as assessed by the learned Tribunal as Rs.8,200/- per month. 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,*** 40% increment has to be afforded on account of future prospects. Deduction of 50% was correctly effected by learned Tribunal. In terms of the judgment of Hon'ble Supreme Court in ***Munna Lal Jain Vs. Vipin Kumar Sharma*****, (2015) 6 SCC 347** duly reiterated in **M/s. Royal Sundaram Alliance Insurance Company Ltd. Vs. Mandala Yadagari Goud and others,** Civil Appeal No.6600 of 2015, decided on 09.04.2019, multiplier of 18 instead of 12 has to be applied, as it is a settled position that the multiplier has to be applied with reference to the age of the deceased and not of the parents/dependents. Claimants are entitled to a sum of Rs.15,000/- each on account of funeral expenses and loss of estate instead of Rs.20,000/- awarded by the learned Tribunal on account of transportation and last rites of the deceased. Appellant no.3 – grand mother is entitled to Rs.40,000/- for loss of filial consortium instead of Rs.30,000/- awarded by the learned Tribunal on account of loss of love and affection.

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

Sr. No.	**Heads**	**Calculations**
1.	Gross income 8,200 x 12	98,400/- per annum
2.	Income after deducting 50% as personal living expenses	98,400 - 49,200 = 49,200/-
3.	Total income after addition at the rate of 40% on account of future prospects	49,200+19,680 (49,200 **x** 40%) = 68,880/-
4.	Compensation after applying multiplier of 18	68,880 x 18 = 12,39,840/-
5.	Funeral expenses	15,000/-
6.	Loss of estate	15,000/-
7.	Loss of filial consortium to appellant no.3	40,000/-
	Total	**13,09,840/-**

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.

April 22, 2019. (**LISA GILL**)
Sunil **JUDGE**

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