IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 4074 of 2015
Date of decision : April 01, 2019

Angoori Devi .....Appellant
Versus
Naresh and others ....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Ajit Sihag, Advocate for the appellant.

Mr. M.B. Jain, Advocate for respondent No. 3.

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LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Hisar (hereinafter referred to as the 'Tribunal') on account of death of Karambir vide award dated 09.02.2015.

Brief facts necessary for adjudication of the case are that the claimant i.e. mother of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation to the tune of ₹50 lakhs on account of death of her son Karambir on 17.09.2013 in a motor vehicle accident caused due to rash and negligent driving of the offending vehicle, Dumper bearing registration No. HR-32D-0228 by respondent No.1.

Learned Tribunal on consideration of the evidence on record, facts and circumstances concluded that the accident in question took place due to rash and negligent driving of the offending vehicle i.e. Dumper bearing registration No. HR-32D-0228 by respondent No. 1. Learned Tribunal awarded a sum of ₹4,89,160/- with interest at the rate of 7.5% per annum from the date of filing of the claim petition till the date of actual realisation of the award. Learned Tribunal assessed income of the deceased as ₹7260/- per month. 50% deduction was effected as the deceased was a bachelor. Multiplier of 11 was applied, on the basis of age of mother of the deceased which was between 51 to 55 years at that time. A sum of ₹10,000/- on account of funeral expenses and transportation was awarded.

Aggrieved of the quantum of compensation, claimants have filed this appeal.

Learned counsel for the appellants submits that learned Tribunal has wrongly assessed income of the deceased as ₹7260/-. It is submitted that the deceased should be treated as a technical person and his income should be assessed accordingly and not as a casual labourer. It is further submitted that multiplier of 18 should be applied keeping in view the age of the deceased as he was admittedly 22 years old at the time of the accident. It is further submitted that increment on account of future prospects should be afforded. Compensation under the conventional heads, it is stated, is meagre. It is, thus, prayed that compensation awarded to the claimant be enhanced.

Learned counsel for the respondent - insurance company submits that just and reasonable compensation has been awarded by the learned Tribunal, which calls for no further enhancement. It is, thus, prayed that impugned award dated 09.02.2015 be upheld.

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

There is no dispute that Karambir lost his life in a motor vehicle accident, which took place on 17.09.2013 caused due to the rash and negligent driving of the offending vehicle, Dumper bearing registration No. HR-32D-0228 by respondent No.1. Finding of the learned Tribunal on this issue has attained finality. The deceased, aged about 22 years, was claimed to be a Turning Machine Operator-cum-Store Keeper in Jindal Poly Button Factor, Hisar, earning a sum of ₹25,000/- per month. It is noticed that minimum wages of an unskilled labourer in the State of Haryana at the relevant time were ₹5,341/- and that of a highly skilled one were ₹5,991/- per month. Learned Tribunal has assessed income of the deceased as ₹7,260/- per month which is more than the wage of a casual labourer. Perusal of the file reveals that there is no specific documentary evidence on record to indicate exact income of the deceased. None from the alleged employer concern of the deceased has been examined neither has any document been produced to indicate the nature of the deceased's vocation. Therefore, I do not find any ground whatsoever to increase income of the deceased as assessed by the learned Tribunal. However, in view of the guidelines of the Hon'ble Supreme Court in the case of **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, increase on account of future prospects at the rate of 40% (₹2904/-) is afforded, as the deceased was 22 years old at the time of accident, which takes income of the deceased to ₹10,164/- per month. In view of the guidelines laid down by the Hon'ble Supreme Court in case of ***Smt. Sarla Verma and others Versus Delhi Transport Corporation and another***, 50% deduction is to be applied as the deceased was a bachelor, thereby rendering income of the deceased to be ₹5082/-(10,164-5082). 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. The deceased in this case was admittedly 22 years old and unmarried at the time of the accident, therefore, multiplier of 18 instead of 11 is to be applied. Dependancy of the claimants is assessed as ₹10,97,712/- (₹5082x12x18). The claimant is entitled to ₹15,000/- each towards funeral expenses (instead of ₹10,000 awarded on account of funeral expenses and transportation) and loss of estate. Appellant-claimant is further entitled to ₹40,000/- for loss of filial consortium. Reference in this respect can gainfully be made to the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Limited versus Nanu Ram Alias Chuhru Ram and other 2018 (4) RCR (Civil) 333** and decision dated 14.03.2019 of this Court in FAO No. 2110 of 2016 and other connected matters.

Claimant is, thus, entitled to total compensation of ₹11,67,712/- detailed as hereunder:-

Loss of dependency(₹5082x12x18)	₹10,97,712/-
Loss of filial consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹11,67,712/-

The amount of compensation already awarded to the appellant, needless to say, shall stand deducted from the amount calculated as above. Appellant shall be entitled to interest at the rate of 7.5% on the enhanced awarded amount from the date of filing of the petition till realization.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

(Lisa Gill)
Judge

April 01, 2019
rts

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