IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 4147 of 2015 (O&M)
Date of decision : October 04, 2019

Poonam .....Appellant

Versus

Vikram Dutt and others ....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. B.S. Tewatia, Advocate for the appellant.

None for respondent No. 3.

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LISA GILL, J.

Present appeal has been filed by the appellant-claimant for enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Faridabad (hereinafter referred to as the 'Tribunal') on account of death of Atul vide award dated 18.02.2015.

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 on account of death of Atul on 03.04.2013 in a motor vehicle accident caused due to rash and negligent driving of the offending vehicle, i.e. Truck bearing registration No. MH-04-FJ-5465 by respondent No.1. The deceased is pleaded to be 19 years old, working as a Cleaner with M/s Gaba Transport, Faridabad.

Learned Tribunal on considering the evidence on record, facts and circumstances concluded that Atul died in the accident which took place on 03.04.2013 due to rash and negligent driving of the offending Truck bearing registration No. MH-04-FJ-5465 by respondent No. 1. Learned Tribunal while assessing the income of the deceased to be ₹6000/- per month awarded a sum of ₹5,04,000/- with interest at the rate of 7.5% per annum from the date of filing of the claim petition till date of actual realisation of the award. 50% deduction was effected as the deceased was a bachelor. Multiplier of 14 was applied.

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

Learned counsel for the appellant submits that there is no dispute regarding income of the deceased. It is, however, submitted that multiplier has been incorrectly applied. Increment on account of future prospects and compensation under the conventional heads, it is stated, has not been afforded. It is, thus, prayed that compensation awarded to the claimant be enhanced.

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

There is no dispute that Atul lost his life in a motor vehicle accident, which took place on 03.04.2013 caused due to the rash and negligent driving of Truck bearing registration No. MH-04-FJ-5465 driven by respondent No.1. Finding of the learned Tribunal on this issue has attained finality. It is a matter of record that the deceased was 19 years old at the time of the accident.

There is no dispute regarding income of the deceased to be ₹6,000/- per month as assessed by the learned Tribunal. 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% (₹2400/-) is afforded, as the deceased was 19 years old at the time of accident, which takes income of the deceased to ₹8400/- 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*** 2009 (3) RCR (Civil) 77, 50% deduction is to be applied as the deceased was a bachelor, thereby rendering income of the deceased to be ₹4200/-(8400-4200). 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 19 years old and unmarried at the time of the accident, therefore, multiplier of 18 instead of 14 is to be applied. Dependancy of the claimant is assessed as ₹9,07,200/- (₹4200x12x18). The claimant is also entitled to ₹15,000/- each for funeral expenses and loss of estate. In terms of 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** titled **Shri Ram General Insurance Company Limited versus Beant Kaur and others,** appellant i.e. mother of the deceased is entitled to ₹40,000/- on account of loss of filial consortium. Claimant is, thus, entitled to total compensation of ₹9,77,200/- detailed as under:-

Loss of dependency (₹4200x12x18)	₹9,07,200/-
Loss of filial consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹9,77,200/-

The amount of compensation already awarded to the appellant, needless to say, shall stand deducted from the amount calculated as above. Appellant is entitled to interest at the rate of 7.5% per annum on the enhanced 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

October 04, 2019
rts

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