

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No. 6383 of 2013 (O&M)

Date of decision : September 06, 2019

Bimla Devi

.....Appellant

Versus

Om Parkash and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Sunil Saharan, Advocate for
Mr. Jitender Dhanda, Advocate
for the appellant.

Mr. Ashish Yadav, Additional AG, Haryana

Mr. Pradeep Kumar, Advocate
for respondent No. 3.

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 Sonu @ Bablu @ Mandeep vide award dated 21.09.2013.

Brief facts necessary for adjudication of the case are that the appellant/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 Sonu @ Bablu @ Mandeep on 10.01.2012, in a motor vehicle accident, caused due to rash and negligent driving of the offending vehicle, i.e. Bus bearing registration No. HR-63A-8918, by respondent No.1. It is pleaded that Sonu (deceased) alongwith Joginder was going towards Sirsa after loading *Bajri* in truck bearing registration No. HR-46-2565. When they reached near Traffic Police Station, Chikanwas on Hisar-Sirsa road,

offending vehicle, Bus bearing registration No. HR-63A-8918 came from Sirsa side being driven in a rash and negligent manner at a high speed and struck against the truck driven by Sonu @ Bablu @ Mandeep. Sonu @ Bablu @ Mandeep as well as Joginder received serious injuries in the accident. Sonu was taken to Agroha Medical College, Agroha where he was declared dead. It is claimed that the deceased was a driver of the truck bearing registration No. HR-46-2565 and was aged about 22 years old at the time of the accident, earning a salary of ₹12,000/- per month.

Learned Tribunal on considering the evidence on record, facts and circumstances concluded that Sonu @ Bablu @ Mandeep died in the accident which took place on 10.01.2012 due to rash and negligent driving of the offending Bus bearing registration No. HR-63A-8918 by respondent No. 1. Learned Tribunal while assessing the income of the deceased to be Rs.4,000/- per month awarded a sum of ₹4,52,000/- 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 he was a Bachelor. Multiplier of 18 was applied as the deceased was 22 years old at that time. Additionally, a sum of ₹20,000/- on account of funeral expenses was awarded.

Aggrieved of the quantum of compensation, claimant has filed this appeal.

Learned counsel for the appellant submits income of the deceased assessed as ₹4,000/- per month by the learned Tribunal is on the lower side and increment on account of future prospects in terms of judgment of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**

should be afforded. It is further submitted that compensation under the conventional heads is meagre. It is, thus, prayed that compensation awarded to the claimants be reworked accordingly.

Learned counsel for the respondent - insurance company submits that adequate compensation has been awarded by the learned Tribunal, which calls for no further enhancement. It is submitted that the compensation has been rightly assessed, thus, impugned award dated 21.09.2013 be upheld.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

There is no dispute that Sonu @ Bablu @ Mandeep lost his life due to injuries received by him in a motor vehicle accident, which took place on 10.01.2012 due to the rash and negligent driving of Bus bearing registration No. HR-63A-8918, by respondent No.1. Finding of the learned Tribunal on this issue has attained finality. It is also not disputed that the deceased was 22 years old at the time of the accident. The claimant has led positive evidence to show that the deceased was working as a driver of the Dumper bearing registration No. HR-46C-2565. It is a matter of record that the deceased was driving the said vehicle at the time of the accident. PW3 Umed Singh, owner of the Dumper has categorically deposed that he was the owner of the said vehicle and he paid a salary of ₹12,000/- per month to the deceased. The claimant herself deposed as PW1 and reiterated the said facts. PW2 Joginder, who was working as a Conductor alongwith the deceased Sonu on the same vehicle, has also testified in this regard. Indeed, there is no categorical and specific evidence on record to indicate the exact salary being paid by PW3. Needless to say, the salary certificate (Ex.P1) is not substantiated by any record, which was maintained by PW3. However,

at the same time, it is duly proved on record that the deceased was indeed employed as a driver by PW3. He was driving the vehicle bearing registration No. HR-46C-2565 at the time of the accident as well. This is duly borne out by the evidence on record.

Learned counsel for the insurance company is unable to deny that the minimum wage available to a driver in the State of Haryana at the time of the accident was ₹5497/- per month. Therefore, income of the deceased is assessed as ₹5500/- per month. In view of the guidelines of the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra) increase on account of future prospects at the rate of 40% (₹2200/-) is afforded, as the deceased was 22 years old at the time of accident, which takes income of the deceased to ₹7700/- 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 ₹3850/-(7700-3850). Applying a multiplier of 18, dependancy of the claimant is assessed as ₹8,31,600/- (₹3850x12x18). The claimant is also entitled to ₹15,000/- each for funeral expenses (instead of ₹20,000/-) 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 ₹9,01,600/- detailed as under:-

Loss of dependency (₹3850x12x18)	₹8,31,600/-
Loss of filial consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹9,01,600/-

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 entire 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.

September 06, 2019
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No