IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 5802 of 2014 (O&M)
Date of Decision: November 07, 2019

Harjit Kaur and others

...... Appellants(s)

Versus

Sucha Singh and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. M.S. Bedi, Advocate
for the appellants.

Ms. Rakhi Sharma, Advocate
for respondent no.1.

Ms. Swati Batra, Advocate
for respondent no.3 – insurance company.

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LISA GILL, J.

This appeal has been filed seeking enhancement of compensation awarded to the claimants vide award dated 26.08.2013, passed by learned Motor Accident Claims Tribunal, Gurdaspur (hereinafter referred to as 'the Tribunal).

Claimants-appellants filed a petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation on account of death of Surjit Singh, due to the injuries suffered by him in the motor vehicle accident, which took place on 09.10.2010. Deceased was claimed to be 35 years old, working as a driver by profession, earning Rs.12,500/- per month.

Learned Tribunal on considering the evidence on record concluded that Surjit Singh lost his life due to the injuries received by him in the motor vehicle accident, which took place on 09.10.2010, due to the rash and negligent driving of the offending truck bearing registration No. PB-06-K-8786, by its driver Sucha Singh - respondent no.1. Learned Tribunal while assessing the income of the deceased to be Rs.6,000/- per month by considering him to be an unskilled worker, awarded a sum of Rs.7,76,000/- as compensation to the claimants, which is detailed as under:-

Sr. No.	**Heads**	**Calculations**
1.	Income	6,000/- per month
2.	Income after deducting 1/4th as personal living expenses of the deceased	6,000/- minus 1,500/- = 4,500/-
3.	Dependency after applying multiplier of 14	4,500 x 12 x 14 = 7,56,000/-
4.	Loss of estate, last rites etc.	20,000/-
	Total	**Rs.7,76,000/-**

Learned Tribunal while observing that the offending vehicle was not insured at the time of the accident held the owner and driver of the offending vehicle to be liable to pay the amount of compensation, jointly and severally. Aggrieved therefrom present appeal has been filed by the appellants-claimants.

An application under Order 41 Rule 27 read with Section 151 CPC was filed for producing additional evidence in the shape of the insurance policy of the offending vehicle as it is averred that the claimants-appellants were not aware about the details of the insurance policy, which was not produced by the owner, but it has come to light that the offending vehicle was duly insured with the Reliance General Insurance Company. The insurance company was impleaded as a respondent before the learned Tribunal on information given by the owner. The insurance policy was obtained by the applicants/appellants by filing an application under the Right to Information Act, when the policy was not produced. The insurance policy was verified to be a genuine one by learned counsel for the insurance company and the application has been disposed of vide separate order of even date in view of the statement made by learned counsel for the insurance company. It is, thus, undeniable that the insurance policy is genuine and the offending vehicle is proved to be duly insured with the respondent-insurance company at the time of the accident.

In this view of the matter, it is apparent that the insurance company is liable to indemnify the insured in this case. Arguments have also been addressed on the quantum of compensation, with the learned counsel for the claimants seeking enhancement of thereof, while learned counsel for the insurance company seeks rejection of this plea.

The deceased Surjit Singh was claimed to be a professional driver. In fact, he was driving a truck at the time of the accident. It is claimed that he was in receipt of a monthly salary of Rs.12,500/-. However, learned counsel for the appellants is unable to deny that there is no clear and cogent evidence except the so called salary certificate (Ex.C3) to indicate the salary earned by the deceased. The said certificate is admittedly a small handwritten note, which has not been proved by the employer of the deceased. It is a matter of record that the minimum wage of a driver in the State of Punjab at the time of the accident was Rs.4,867/- per month. Therefore, assessment of the income of the deceased to be Rs.6,000/- per month by the learned Tribunal does not call for any variation.

The deceased was admittedly 38 years old at the time of accident. 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 1/4th was correctly effected by learned Tribunal. Multiplier of 15 instead of 14 has to be applied in this case. However, instead of Rs.20,000/- awarded by the learned Tribunal towards loss of estate, last rites etc., claimants are entitled to a sum of Rs.15,000/- on account of funeral expenses besides a sum of Rs.15,000/- on account of loss of estate. Appellant-widow is entitled to a sum of Rs.40,000/- on account of loss of spousal consortium. Appellants no.2 to 5 are entitled to a sum of Rs.40,000/- towards loss of parental consortium. 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-2110-2016, 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**	**Calculations**
1.	Income	6,000 x 12 = 72,000/- per annum
2.	Income after deducting 1/4th as personal living expenses of the deceased	72,000 - 18,000/- (1/4th) = 54,000/-
3.	Total income after addition at the rate of 40% on account of future prospects	54,000 + 21,600 (54,000 x 40%) = 75,600/-
4.	Dependency after applying multiplier of 15	75,600 x 15 = 11,34,000/-
5.	Loss of estate	15,000/-
6.	Funeral expenses	15,000/-
7.	Loss of consortium to appellant no.1	40,000/-
8.	Loss of parental consortium to appellant no.2 to 5	40,000/-
	Total	**12,44,000/-**

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.

(LISA GILL)
JUDGE

November 07, 2019.

Sunil

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