IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

FAO No. 4680 of 2015(O&M)

Date of Decision: September 06 , 2019.

Sumitra Devi ...... APPELLANT (s)

Versus

Naseeb and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Harish Bhardwaj, Advocate
for the appellant.

Ms. Vandana Malhotra, Advocate
for respondent No.3 – Insurance company.

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LISA GILL, J.

This appeal has been filed by the claimant seeking enhancement of compensation awarded to her by the learned Motor Accident Claims Tribunal, Sonipat (for short, the 'Tribunal') vide impugned award dated 29.08.2014 on account of death of her son, Ravi Kumar in a motor vehicle accident.

Brief facts necessary for the adjudication of the case are that, the claimant, who is the mother of the deceased, filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of her son, Ravi Kumar, who lost his life in a motor vehicle accident which took place on 28.07.2013. FIR No.212 dated 28.07.2013, under Sections 279/304A IPC, Police Station Gohana City was registered against respondent No.1-driver in respect to the incident. It is pleaded that deceased-Ravi Kumar was earning ₹20,000/- per month. Compensation was thus prayed for.

Learned Tribunal on considering the facts and evidence on record concluded that the accident in question took place due to the rash and negligent driving of Trolla bearing registration No.HR-63B-1556 by respondent No.1. Learned Tribunal while assessing income of the deceased to be ₹6,000/- per month, awarded a total amount of ₹4,93,000/- to the claimant. Deduction to the extent of 50% was effected. Multiplier of 13 was applied. ₹25,000/- was awarded on account of funeral expenses.

Learned counsel for the appellant argues that income of the deceased has been wrongly assessed. It is submitted that increment on account of future prospects has not been afforded. Compensation under the conventional heads, it is submitted, is meagre. It is thus prayed that the amount of compensation awarded to the appellant be enhanced accordingly.

Learned counsel for respondent No.3-Insurance company refutes the abovesaid averments and submits that just and reasonable compensation has been awarded by the learned Tribunal which does not call for any enhancement. Dismissal of the appeal is prayed for.

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

There is no dispute regarding death of Ravi Kumar in a motor vehicle accident which took place on 28.07.2013 due to the rash and negligent driving of the offending vehicle bearing registration No.HR-63B-1556 by respondent No.1-Naseeb. Finding of the learned Tribunal in this regard has attained finality.

There is no evidence on record to detract from the claim set up by the appellant that the deceased had a Diploma in Education and was taking coaching for JBT internship programme at Government Primary School, Wazirpura, Sonipat. Reference in this regard can be made to Ex.P3 issued by the HOD (D.Ed.), Darsh P.G. College of Education, Gohana (Sonepat). Date of birth of the deceased-Ravi Kumar was 28.06.1992 at the time of the accident.

Learned Tribunal has assessed income of the deceased while considering the minimum wage available to a manual labourer (skilled) in the State of Haryana at the relevant time. Admittedly, the deceased was an educated person and, therefore, capable of earning more than the said amount. Keeping in view the facts and circumstances, it is considered just and expedient to assess income of the deceased to be ₹7,500/- per month.

Increase in income on account of future prospects at the rate of 40% is afforded in terms of the judgment of the Hon'ble Supreme in **National Insurance Company Limited v. Pranay Sethi and others,** ***2017(16) SCC 680***. The matter regarding application of multiplier while assessing the compensation is no longer res integra. The Hon'ble Supreme Court in **Munna Lal Jain v. Vipin Kumar Sharma, (*2015) 6 SCC 347*** has specifically held that multiplier is to be applied with reference to the age of the deceased. The deceased was admittedly 21 years old at the time of the accident, his date of birth being 28.06.1992. Therefore, multiplier of 18 instead of 13 is required to be applied in this case.

Deduction to the extent of 50% has been correctly effected. Instead of ₹25,000/- towards funeral expenses, ₹15,000/- is awarded. Additionally, ₹15,000/- is awarded to the appellant on account of loss of estate. Appellant is held entitled to ₹40,000/- on account of loss of filial consortium in terms of 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 No.2110 of 2016 (Shri Ram General Insurance Company Ltd. v. Beant Kaur and others).

Claimant is, thus, entitled to compensation which is re-worked as under:-

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	7,500 per month i.e., 90,000 per annum
2.	Total income after addition at the rate of 40% on account of future prospects	90,000 + (90,000 **x** 40%) = 1,26,000
3.	Deduction of 50% on account of personal expenses	1,26,000 – (1,26,000 **x** 1/2) = 63,000
4.	Dependancy after applying a multiplier of 18	(63,000 **x** 18) = 11,34,000
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of filial consortium	40,000
	Grand Total	₹12,04,000/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Claimant shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of filing of the petition till realization. Manner of disbursement shall remain the same as determined by the learned Tribunal.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

September 06 , 2019.
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No