IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 3751 of 2016
Date of Decision: July 17, 2019

Sheela and another

...... Appellants(s)

Versus

Sohan Lal and others ..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Ajay Aggarwal, Advocate for
Mr. Sandeep Goyat, Advocate
for the appellants.

Mr. Yashdeep Nain, Advocate
for respondents no.1 and 2.

Mr. Satish Jain, Advocate
for respondent no.3.

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LISA GILL, J. (oral)

This appeal has been filed seeking enhancement of the compensation awarded to the claimant on account of death of Joginder @ Krishan vide award dated 12.02.2016, passed by learned Motor Accidents Claims Tribunal, Hisar (hereinafter referred to as 'the Tribunal).

The appellants-claimants preferred the petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation on account of the death of their son Joginder @ Krishan, due to injuries received by him in a motor vehicle accident, which took place on 17.06.2014. The deceased Joginder @ Krishan, it is pleaded, was an agriculturist and engaged in dairy farming. He was claimed to be earning Rs.25,000/- per month.

Compensation was thus claimed for.

Learned Tribunal on considering the evidence on record and the facts and circumstances of the case concluded that Joginder @ Krishan died due to the injuries received by him in the motor vehicle accident, which took place on 17.06.2014, due to the rash and negligent driving of the motorcycle bearing registration No. HR-18-B-3857, by Sohan Lal-respondent no.1. The deceased was accepted to be 20 years old at the time of the accident. While observing that there was no proof regarding the deceased being an agriculturist or being engaged in dairy farming, learned Tribunal assessed his income as Rs.7,500/- per month and awarded a sum of Rs.7,80,000/- as compensation to the appellants-claimants, the detail of which is as under:-

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	90,000/- per annum
2.	Income after deduction of 50% on account of personal and living expenses of the deceased	90,000 - 50% = 45,000/-
3.	Income after applying multiplier of 14	45,000 x 14 = Rs.6,30,000/-
4.	Funeral ceremony and transportation	Rs.25,000/-
5.	Loss of love and affection	Rs.1,00,000/-
6.	Cost of litigation	Rs.25,000/-
	Grand Total	**Rs.7,80,000/-**

Present appeal has been filed seeking enhancement of the aforesaid compensation.

Learned counsel for the appellants argues that increment on account of future prospects should be awarded, though it is fairly stated that compensation under the conventional heads be re-worked in terms of the judgment of Hon'ble Court in **National Insurance Company Limited v. Pranay Sethi and others,** ***2017(16) SCC 680*** and ***Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors.*** **2018(4) RCR Civil 333**.

Learned counsel for respondent no.3-insurance company refutes the arguments and submits that excessive compensation has already been awarded by the learned Tribunal. It is submitted that the minimum wage in the State of Haryana at the time of the accident was not more than Rs.6,000/- per month. Dismissal of the appeal is prayed for.

I have heard learned counsel for the appellant and respondent no.2 and have gone through the record.

There is no dispute regarding death of Joginder @ Krishan, due to the injuries received by him in the motor vehicle accident, which took place on 17.06.2014, due to the rash and negligent driving of the motorcycle bearing registration No. HR-18-B-3857, by its driver Sohan Lal-respondent no.1. There is further no dispute regarding the age of the deceased i.e. 20 years at the time of the accident. Learned counsel for the appellants is unable to deny that there is no evidence on record to indicate the deceased to be an agriculturist besides being engaged in dairy farming, thus, earning a sum of Rs.25,000/- per month. In such a situation, it is at best lost of managerial skills which can be taken to be the income of the deceased. Minimum wage in the State of Haryana at the time of the accident was Rs.5,547/-. Income of the deceased is thus, assessed as Rs.6,500/- per month as it is a settled position that compensation to be awarded to the claimants in a given situation should not be a pittiance nor a bonanza. Addition on account of future prospects has to be afforded @ 40% in terms of the judgment of Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others,** ***2017(16) SCC 680***. Learned Tribunal has erred in applying the multiplier. The matter regarding application of multiplier while assessing the compensation is no longer *res integra*. It has been held by the Hon'ble Supreme Court in ***Munna Lal Jain Vs. Vipin Kumar Sharma, (2015) 6 SCC 347*** that the multiplier is to be applied as per the age of the deceased. Therefore, multiplier of 18 instead of 14 has to be applied. Deduction of 50% was correctly effected by learned Tribunal. Instead of a sum of Rs.25,000/- awarded by learned Tribunal on account of transportation and funeral expenses, the appellants are entitled to a sum of Rs.15,000/- besides a sum of Rs.15,000/- for loss of estate. Instead of a sum of Rs.1,00,000/- awarded by the learned Tribunal on account of loss of love and affection, the claimants are entitled to a sum of Rs.40,000/- in terms of the judgment of Hon'ble 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, titled Shri Ram General Insurance Co. Ltd. Vs. Beant Kaur and ors.

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

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	6,500 x 12 = 78,000/-
2.	Income after deduction of 50% on account of personal and living expenses of the deceased	78,000 **-** 50% = 39,000/-
3.	Income after addition at the rate of 40% on account of future prospects	39,000 + 15,600(39,000 x 40%) = Rs.54,600/-
4.	Income after applying multiplier of 18	54,600 x 18 = Rs.9,82,800/-
5.	Funeral expenses	Rs.15,000/-
6.	Loss of estate	Rs.15,000/-
7.	Loss of filial consortium	Rs. 40,000/-
	Grand Total	**Rs. 10,52,800/-**

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 on the enhanced amount at the rate of 7.5% per annum from the date of filing of the petition till realization. Ratio of apportionment as well as manner of disbursement amongst the claimants as determined by the learned Tribunal shall remain the same.

Appeal is accordingly disposed of.

July 17, 2019. **(LISA GILL)**
Sunil **JUDGE**

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