IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 4801 of 2015 (O&M)
Date of Decision: February 01, 2019

Ravi Kumar and others ...... Appellants(s)

Versus

Shri Jai Pal and others ..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Arun Sharma, Advocate
for the appellants.

Mr. Rahul Garg, Advocate
for respondents no.1 & 2.

Mr. Vishwajit Bedi, Advocate
for respondent no.3.

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LISA GILL, J.

This appeal has been filed seeking enhancement of the compensation awarded to the claimants vide award dated 29.01.2015, passed by learned Motor Accidents Claims Tribunal, Ambala (hereinafter referred to as 'the Tribunal).

Brief facts as mentioned in the petition under Section 166 of the Motor Vehicles Act filed by the claimants, seeking compensation on account of death of Mewa Devi in the motor vehicle accident which took place on 15.08.2014 are that Smt. Mewa Devi widow of Sh. Manphool Singh along with her son Ravi Kumar was standing on the berm of Kesri Station Road in front of their house on 15.08.2014 at about 4:00 PM. Suddenly, respondent no.1 while driving his truck bearing registration No. HR-38/A-0059 at a very high speed, in a rash and negligent manner, came from village side and struck his truck against Mewa Devi. Due to this impact, she got entangled with the front wheel of the truck and the lower portion of her body was badly crushed. She died at the spot. The dead body of Mewa Devi was taken to General Hospital and postmortem was conducted by the doctors. It is claimed that the claimants spent Rs. 1 lac on transportation, funeral and last rites etc. Smt. Mewa Devi was the only bread earner of her family consisting of two sons and three daughters. Her husband had expired in 2005 and she was running a tailoring shop/boutique at home and provided domestic services to her children and was earning Rs.15,000/- to Rs.20,000/- per month.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place due to the rash and negligent driving of Indigo Car bearing registration No.HR38/A-0059 by respondent No.1-Jai Pal. This finding of the learned Tribunal has attained finality.

Learned Tribunal assessed the notional income of the deceased to be ₹6,000/- per month while taking her to be a housewife. By applying a multiplier of 15, a total sum of ₹10,80,000/- was awarded as compensation to the claimants without making any deduction vide impugned award dated 29.01.2015. The deceased was aged 40 years at the time of the accident. ₹1,00,000/- was awarded on account of loss of love and affection and also on account of pain, agony and loss of consortium. Another sum of ₹20,000/- to the claimants was awarded towards last rites/funeral expenses. Present appeal has been filed seeking enhancement of the aforesaid compensation.

Learned counsel for the appellants argues that notional income of the deceased has been assessed wrongly on the lower side. Moreover, increment on account of future prospects should also be afforded. It is submitted that compensation under the conventional heads be afforded as per the judgments of **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., in Civil Appeal No.9581 of 2018 decided on 18.09.2018**. It is thus prayed that the amount of compensation awarded to the appellants be enhanced accordingly.

Learned counsel for respondents, however, prays that the impugned award dated 29.01.2015 does not call for any enhancement of the compensation as the same is reasonable and just in the facts and circumstances of the case. Dismissal of the appeal is prayed for.

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

It is not in dispute that husband of Mewa Devi (deceased) had already died in the year 2005. After his death, Mewa Devi was looking-after her five children who were dependent upon her. Though there is no specific documentary evidence on record to prove that the deceased was running a tailoring shop/boutique but in order to look-after her five children, she would necessarily have engaged in some vocation. Therefore, assessment of her income as ₹6,000/- per month is unjustified. Notional income of a house wife in respect of an accident which took place in the year 2012 had been accepted as ₹9,000/- per month by this Court in FAO No.218 of 2014 titled as ***United India Insurance Co. Ltd. Vs. Sube Singh and others***, decided on 15.01.2014. Accident in the present case took place in August 2014. In this view of the matter, income of the deceased is assessed as ₹9,000/- per month instead of ₹6,000/- per month. Deceased was 40 years old as held by the learned Tribunal on the basis of the postmortem report Ex. P2. She is thus entitled to future prospects @ 40%. Deduction in terms of the judgment of Division Bench in ***Paramjeet Singh and another Vs. Dilbag Singh alias Bagga and others*** FAO No.3310 of 2012, decided on 16.05.2013 has rightly not been effected by the learned Tribunal. Multiplier of 15 was correctly applied. Claimants are entitled to ₹15,000/- each on account of funeral expenses and loss of estate instead of the sum of ₹20,000/- awarded on account of funeral expenses. Keeping in view the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company's** case (supra) the claimants, instead of a sum of ₹1,00,000/- awarded by the Tribunal on account of pain and agony etc., are held entitled to a sum of ₹40,000/- each on account of loss of parental consortium.

Appellants-claimants are, thus, entitled to compensation which is re-worked as under:-

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	9,000 p.m. i.e. ₹1,08,000/- per annum

2.	Total income after addition at the rate of 40% on account of future prospects	1,08,000 + (1,08,000 **x** 40%) = 1,51,200
3.	Total dependency after applying a multiplier of 15	(1,51,200 **x** 15) = 22,68,000
4.	Funeral expenses/Last rites @ 15,000 x 5	75,000
5.	Loss of parental/consortium @ 40,000 x 5	2,00,000
	Grand Total	₹28,02,200/-

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.

February 01, 2019. **(LISA GILL)**
Sunil **JUDGE**

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