IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 4228 of 2016

Date of Decision: July 18 , 2019.

Karamjit Kaur and others ...... APPELLANT (s)

Versus

Malkiat Singh and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Ankur Gupta, Advocate
for the appellants.

Mr. Pardeep Goyal, Advocate
for respondent No.3 – Insurance company

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1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

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LISA GILL, J.

This appeal has been filed by the claimants seeking enhancement of compensation awarded to them by the learned Motor Accident Claims Tribunal, Ludhiana (for short, the 'Tribunal') vide impugned award dated 04.11.2015 on account of death of Raghvir Singh in a motor vehicle accident.

Brief facts necessary for the adjudication of the case are that, the claimants filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Raghvir Singh, who lost his life in a motor vehicle accident which took place on 05.04.2014. FIR (Ex.P3) under Sections 279/304A IPC was registered at Police Station Ghatgaon in respect to the incident.

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 truck bearing registration No.PB-23K-9995 by respondent No.1-Malkiat Singh. This finding of the learned Tribunal has attained finality.

Learned Tribunal while assessing income of the deceased to be ₹6,000/- per month, awarded compensation of ₹6,44,000/- to claimants, besides, a sum of ₹50,000/- to claimant No.1 on account of loss of consortium. Deceased was held to be 53 years old at the relevant time. Deduction to the extent of 1/4th was effected. Multiplier of 11 was applied. ₹50,000/- was awarded on account of transportation and funeral expenses.

Aggrieved from the quantum of compensation, claimants have preferred this appeal.

Learned counsel for the appellants argues that the deceased was earning income, much higher than as assessed by the learned Tribunal. It is further submitted that increment on account of future prospects should be afforded. It is thus prayed that the amount of compensation awarded to the appellants 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 Raghvir Singh in a motor vehicle accident which took place on 05.04.2014 due to the rash and negligent driving of the offending vehicle bearing registration No.PB-23K-9995 by respondent No.1-Malkiat Singh. Neither is there a dispute regarding liability of the Insurance company.

Deceased-Raghvir Singh was admittedly 53 years old at the time of the accident. There is no evidence on record to show that the exact income of the deceased. At the same time, it cannot be ignored that the deceased was accepted to be a truck driver at the relevant time. Learned counsel for the Insurance company is unable to deny that the minimum wage available for a skilled labourer in the State of Punjab at the time of the accident was ₹8,125/- per month. Therefore, his income is assessed as ₹8,125/- per month.

Claimants are entitled to addition in income at the rate of 10% on account of future prospects in terms of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others,** ***2017(16) SCC 680***. Deduction to the extent of 1/4th towards personal expenses has been correctly effected by the learned Tribunal. Multiplier of 11 has been rightly applied as well.

Instead of ₹50,000/- on account of funeral expenses and transportation, the claimants are entitled to ₹15,000/- towards loss of estate and ₹15,000/- towards funeral expenses. Appellant No.1 is held entitled to ₹40,000/- for loss of filial consortium instead of ₹50,000/- and appellants No.2 to 4 i.e., children of the deceased, are entitled to ₹40,000/- for loss of parental consortium in terms of the judgments of the Hon'ble Supreme Court in Pranay Sethi (supra) and **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).

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

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	8125 p.m. i.e. ₹97,500/- per annum
2.	Total income after addition at the rate of 10% on account of future prospects	97,500 + (97,500 **x** 10%) = 1,07,250
3.	Net income deduction of 1/4th on account of personal expenses	1,07,250 – (1,07,250 **x** 1/4) = 80,438
4.	Total dependancy after applying a multiplier of 11	(80,438 **x** 11) = 8,84,818
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of filial consortium to appellant No.1	40,000
8.	Loss of parental consortium to appellants No.2 to 4	40,000
	Grand Total	₹9,94,818/-

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 entire awarded amount, instead of 6%, from the date of filing of the petition till realization.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

July 18 , 2019.
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No