IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

FAO No. 4339 of 2016(O&M)

Date of Decision: October 22 , 2019.

Preeto Devi and another ...... APPELLANT (s)

Versus

Jyoga Ram and others ...... RESPONDENT (s)

CORAM:7- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. S.S.Momi, Advocate
for the appellants.

Mr. Sanjeev Kodan, Advocate and
Ms. Priya Deep, Advocate
for respondent No.3-Insurance company.

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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, Kurukshetra (for short, the 'Tribunal') vide impugned award dated 20.09.2013 on account of death of Sukhchain Singh in a motor vehicle accident.

Brief facts necessary for the adjudication of the case are that, the appellants, who are parents of the deceased, filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of their son, Sukhchain Singh, who lost his life in a motor vehicle accident which took place on 30.10.2010. FIR No.290 dated 30.10.2010 under Sections 279/304A IPC was registered in respect to the accident. The deceased was pleaded to be 20 years old, earning a sum of ₹7,000/- per month. Compensation was thus prayed for.

Learned Tribunal on considering the facts and evidence on record concluded that Sukhchain Singh died due to the injuries received by him in a motor vehicle accident which took place due to the rash and negligent driving of truck, bearing registration No.HR-38H-7882, by respondent No.1-Jyoga Ram. Learned Tribunal while assessing income of the deceased as ₹5,500/- per month taking him to be a casual labourer, awarded a total amount of ₹8,19,000/- to the claimants. Deduction to the extent of 50% was effected. Multiplier of 18 was applied. ₹25,000/- was awarded towards funeral expenses, besides, ₹1,00,000/- each to both the claimants on account of loss of love and affection.

Learned counsel for the appellants while not raising any challenge to the income of the deceased as assessed by the learned Tribunal, submits that increment on account of future prospects should be afforded. It is however fairly stated that compensation under the conventional heads may be reworked in terms of the judgments of the Hon'ble Supreme 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***. It is thus prayed that the amount of compensation awarded to appellant No.1 be enhanced accordingly.

Per contra, learned counsel for respondent-Insurance company refutes the abovesaid averments and prays for dismissal of the appeal. It is submitted that excessive compensation has been awarded by the learned Tribunal under the conventional heads.

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

There is no dispute regarding death of Sukhchain Singh, aged 20 years, in a motor vehicle accident which took place on 30.10.2010 due to the rash and negligent driving of the offending vehicle bearing registration No.HR-38H-7882 by respondent No.1-Jyoga Ram. Finding of the learned Tribunal in this regard has attained finality.

Income of the deceased is accepted to be ₹5,500/- per month as assessed by the learned Tribunal. Claimants are entitled to an increment at the rate of 40% on account of future prospects in terms of the judgment of the Hon'ble Supreme in **Pranay Sethi (supra)**. Multiplier of 18 has been rightly applied by the learned Tribunal. Deduction to the extent of 50% has been correctly effected as well. Instead of ₹25,000/- towards funeral expenses, ₹15,000/- is awarded to the appellants. Additionally, ₹15,000/- is awarded to the appellants on account of loss of estate. Instead of ₹1,00,000/- each on account of loss of love and affection, appellants are 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. (supra)** 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	5,500 per month i.e., 66,000 per annum

2.	Total income after addition at the rate of 40% on account of future prospects	66,000 + (66,000 **x** 40%) = 92,400
3.	Deduction of 50% on account of personal expenses	92,400 – (92,400 **x** 1/2) = 46,200
4.	Dependancy after applying a multiplier of 18	(46,200 **x** 18) = 8,31,600
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of filial consortium	40,000
	Grand Total	₹9,01,600/-

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 and manner of disbursement shall remain the same as determined by the learned Tribunal. It is clarified that the claimants shall not be entitled to interest for the period of delay in filing of the appeal keeping in view the specific undertaking on their part at the time of condonation of delay in filing of this appeal.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

October 22 , 2019.
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No