IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 4947 of 2016 (O&M)
Date of Decision: November 29, 2019

Renu and others

...... Appellants(s)

Versus

Sanjay Singh Muniyal @ Sanjay Kumar Muniyal and another

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Ravi Malik, Advocate for
Mr. Sanjeev Kumar Panwar, Advocate
for the appellants.

Mr. Inderjeet Singh, Advocate
for respondent no.1.

Mr. Pradeep Kumar, Advocate
for respondent no.2.

****

LISA GILL, J.

This appeal has been filed seeking enhancement of the compensation awarded to the claimants vide award dated 03.02.2016, passed by learned Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter referred to as 'the Tribunal').

Claimants who are the widow, two minor children and aged parents of the deceased Roop Kumar @ Rinku, filed a petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation on account of death of Roop Kumar @ Rinku, due to the injuries suffered by him in the accident, which took place on 22.06.2013. Deceased was claimed to be 30 years old and engaged in the business of selling cloth and dairy farming, thereby earning Rs.25,000/- per month.

Learned Tribunal on considering the evidence on record concluded that Roop Kumar @ Rinku lost his life due to the injuries received by him in the accident in question, which took place on 22.06.2013, due to the rash and negligent driving of the offending car bearing registration No. UK-07AS-9413, by its driver Sanjay Singh Muniyal @ Sanjay Kumar Muniyal - respondent no.1. Learned Tribunal while assessing the income of the deceased with reference to minimum wage of an unskilled labourer as Rs.5,212/- per month, awarded a sum of Rs.8,77,436/- as compensation to the claimants, which is detailed as under:-

Sr. No.	**Heads**	**Calculations**
1.	Income	5,212/- per month
2.	Income after deducting 1/4th as personal living expenses of the deceased	5,212/- minus 1,303/- = 3,909/-
3.	Dependency after applying multiplier of 17	3,909 x 12 x 17 = 7,97,436/-
4.	Loss of consortium to petitioner no.1	20,000/-
5.	Loss of love and affection to each child	25,000 + 25000 =50,000/-
6.	Funeral expenses	10,000/-
	Total	**Rs.8,77,436/-**

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

Learned counsel for the appellants submits that income of the deceased has been wrongly assessed and increment towards future prospects should also be afforded. Meagre compensation under the conventional heads has been afforded and same be re-worked in terms of the judgment of Hon'ble Supreme Court **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 compensation be enhanced.

Learned counsel for the insurance company, however, refutes the above said arguments while submitting that just and reasonable compensation has been awarded by the learned Tribunal, which calls for no enhancement. Dismissal of this appeal is prayed for.

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

Learned counsel for the appellants specifically pleaded that the deceased Roop Kumar was in the business of selling cloth and dairy farming. Gian Chand Narula, Cloth Merchant examined as PW3, stated that he was running the business of cloth under the name and style of Delhi Cloth House at Chhachhrauli. PW3 further stated that Roop Kumar used to sell cloth in rural areas after purchasing it from his shop. He produced on record cash memo Ex.PW3/B, which however, does not bear the name of the deceased. Learned Tribunal, nevertheless, has erred in assessing income of the deceased with reference to the minimum wage available to an unskilled worker in the State of Haryana at the time of the accident. It is a matter of record that at the time of the accident Roop Kumar was travelling on his motorcycle, which was fitted with an iron frame wherein ladies suits, pants and shirts were being carried. It is mentioned in the FIR Ex.P8 as well as in the final report under Section 173 Cr.P.C. Ex.P1 that the said ladies suits, pants and shirts were lying on the spot. This fact affirms and verifies the assertion of the claimants that the deceased was indeed in the business of selling cloth. Minimum wage of a skilled labourer in the month of June 2013 was about Rs.6,500/- per month. In view of the above, income of the deceased is assessed as Rs.6,500/- per month.

Keeping in view the judgment of the Hon'ble supreme Court in ***National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680,*** 40% increment has to be afforded on account of future prospects. Deduction of 1/4th was correctly effected by learned Tribunal. As the deceased was admittedly 30 years old at the time of the accident, multiplier of 17 was correctly applied by learned Tribunal. The appellants are also entitled to a sum of Rs.15,000/- each towards funeral expenses and loss of estate instead of Rs.10,000/- awarded by the learned Tribunal on account of funeral expenses. However, instead of a sum of Rs.20,000/- awarded by the learned Tribunal on account of loss of consortium, appellant no.1 is entitled to a sum of Rs.40,000/- on account of loss of spousal consortium. Appellants no.2 and 3 are not entitled to Rs.25,000/- on account of loss of love and affection. They are held entitled to a sum of

Rs.40,000/- towards loss of parental consortium. Appellants no.4 and 5 are entitled to a sum of Rs.40,000/- towards loss of filial consortium. Reference in this regard can gainfully be made to 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-2110-2016, title ***Shri Ram General Insurance Company Ltd. Vs. Beant Kaur and others***.

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

Sr. No.	**Heads**	**Calculations**
1.	Income	6,500 x 12 = 78,000/- per annum
2.	Income after deducting 1/4th as personal living expenses of the deceased	78,000 - 19,500/- (1/4th) = 58,500/-
3.	Total income after addition at the rate of 40% on account of future prospects	58,500 + 23,400 (58,500 x 40%) = 81,900/-
4.	Dependency after applying multiplier of 17	81,900 x 17 = 13,92,300/-
5.	Loss of estate	15,000/-
6.	Funeral expenses	15,000/-
7.	Loss of consortium to appellant no.1	40,000/-
8.	Loss of parental consortium to appellant no.2 and 3	40,000/-
9.	Loss of filial consortium to claimants no.4 and 5	40,000/-
	Total	**15,42,300/-**

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 amount instead of 7%, from the date of filing of the claim petition till realization. Ratio of apportionment as well as manner of disbursement of compensation amongst the claimants as determined by the learned Tribunal shall remain the same.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

November 29, 2019.
Sunil

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