IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 5224 of 2016(O&M)

Date of Decision: January 14 , 2019.

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

Versus

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

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

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

Mr. R.K.Bashamboo, Advocate
for respondent No.3– Insurance Company.

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LISA GILL, J.

CM No.17695-CII of 2016

As liability of the Insurance company is not in dispute, service upon respondents No.1 and 2 is dispensed with.

For the reasons mentioned in the application as well as the arguments address, delay of 37 days in filing of the appeal is condoned.

Application is disposed of.

FAO No.5224 of 2016

Notice of motion.

Mr. Bashamboo accepts notice on behalf of respondent No.3. Service upon respondentsNo.1 and 2 stands dispensed with.

This appeal has been filed by the claimants seeking enhancement of compensation awarded to them by the learned Motor Accident Claims Tribunal, Rupnagar (for short, the 'Tribunal') vide impugned award dated 28.01.2016 on account of death of Munna Kumar @ Munna Biswas in a motor vehicle accident.

Brief facts necessary for adjudication of the case are that, the claimants, who are parents of the deceased, filed a petition under Section 166 of the Motor Vehicles Act (for short, the 'Act') seeking compensation on account of death of their son Munna Kumar @ Munna Biswas, who lost his life in a motor vehicle accident which took place on 17.07.2015 due to the rash and negligent driving of the offending vehicle by Baljinder Singh. FIR No.95 dated 17.07.2015, under Sections 279/427/304A/431 IPC, Police Station Nurpur Bedi was registered against driver of the offending vehicle.

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 truck tipper bearing registration No. PB-12-T-3602 by respondent No.1-Baljinder Singh. There is no challenge to the finding of the learned Tribunal in this respect and the same has attained finality.

The learned Tribunal awarded a total sum of ₹6,98,000/- as compensation to the claimants vide impugned award. Income of the deceased was assessed as ₹6,000/- per month. The deceased was 20 years old at the time of the accident. Deduction of 50% on account of personal expenses was effected. Multiplier of 18 was applied. ₹25,000/- each was awarded towards funeral expenses and loss of love & affection.

Learned counsel for the appellants submits that the learned Tribunal has erred in assessing income of the deceased to be ₹6,000/- per month, whereas even minimum wage in the State of Punjab at the relevant time was ₹6847.75/- per month. It is further submitted that increment on account of future prospects has not been granted and meagre amount has been awarded under the conventional heads. It is thus prayed that the amount of compensation awarded to the appellants be enhanced accordingly.

Learned counsel for respondent No.3 however prays that the impugned award 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.

There is no dispute that Munna Kumar @ Munna Biswas died due to injuries received by him in a motor vehicle accident which took place on 17.07.2015 due to rash and negligent driving of the offending vehicle bearing registration No.PB-12-T-3602 by its driver, respondent No.1-Baljinder Singh. Deceased Munna Kumar @ Munna Biswas was 20 years old at the time of accident. He is claimed to be working as a mason. Raj Kumar-contractor with whom Munna Kumar @ Munna Biswas was claimed to be working, has not been examined. There is no evidence to substantiate the said plea. However, at the same time, it is noticed that minimum wage of an unskilled labourer in the State of Punjab at the time of accident was ₹6847.75/- per month. Therefore, income of the deceased is assessed as ₹6850/- per month instead of ₹6000/-.

Increase in income at the rate of 40% on account of future prospects has to be afforded 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 50% has been correctly effected. Multiplier of 18 has been rightly applied as well. The claimants are entitled to a sum of

₹15,000/- each on account of funeral expenses (instead of ₹25,000/-) and loss of estate. Both the claimants are held entitled to ₹40,000/- each on account of loss of filial consortium in view of the observations of the Hon'ble Supreme Court in **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors., in Civil Appeal No.9581 of 2018 decided on 18.09.2018**.

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

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	6,850 p.m. i.e. ₹82,200/- per annum
2.	Increase in income at the rate of 40%	82,200 x (82,200 **x** 40%) = 1,15,080
3.	Net income after 50% deduction on account of personal expenses	1,15,080 – (1,15,080 **x** 1/2) = 57,540
4.	Total dependancy after applying a multiplier of 18	(57,540 **x** 18) = 10,35,720
5.	Loss of filial consortium @40,000	40,000 x 2 = 80,000
6.	Loss of estate	15,000
7.	Funeral expenses	15,000
	Grand Total	₹11,45,720/-

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.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

14.01.2019
rajeev/om

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