IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 6286 of 2015 (O&M)
Date of Decision: February 20, 2019

Amarjit Kaur and another ...... Appellants(s)

Versus

Harjinder Singh alias Kala and another ..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Vijay Rana, Advocate
for the appellants.

Mr. Ravinder Arora, Advocate
for respondent no.1.

Mr. R.K. Bashamboo, Advocate
for respondent no.2-insurance company.

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LISA GILL, J. (oral)

This appeal has been filed seeking enhancement of the compensation awarded to the claimants vide award dated 01.05.2015, passed by learned Motor Accidents Claims Tribunal, Fatehgarh Sahib (hereinafter referred to as 'the Tribunal).

Undisputed facts of the case are that Mandeep Singh (since deceased) son of the appellants-claimants lost his life in a motor vehicle accident, which took place on 21.04.2014, caused due to the rash and negligent driving of the offending Alto car bearing registration No. PB-23K-0464 by its driver Harjinder Singh @ Kala - respondent no.1. Finding of the learned Tribunal on this issue has attained finality.

Learned Tribunal on considering the evidence on record, facts and circumstances, while assessing the income of the deceased to be Rs.5,000/- per month, awarded a sum of Rs. 5,65,000/- to the appellants-claimants, the detail of which is as under:-

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	5,000/- p.m.
2.	50% deducted as personal expenses of the deceased	5000 - 2500 = 2,500/-
3.	Compensation after applying a multiplier of 18	2500 x 12 x 18 = 5,40,000/-
4.	Funeral expenses	25,000/-
	Grand Total	Rs.5,65,000/-

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

Learned counsel for the appellants argues that income of the deceased has been wrongly assessed as Rs.5,000/- per month whereas the minimum wages in the State of Punjab at the time of accident were much more. It is further submitted that increment on account of future prospects be awarded. Compensation under the conventional heads should also be enhanced.

Learned counsel for the respondents, however, pray that the impugned award dated 01.05.2015 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 record.

The deceased Mandeep Singh was admittedly 20 years old at the time of the accident. He was engaged in the work of tyre puncture and tyre repair. The accident in question took place on 21.04.2014 while he was at his work place. PW-1 Amarjit Kaur, mother of the deceased deposed in this respect. PW-2 Gurpreet Singh deposed that Mandeep Singh (deceased) was working at his shop of tyre repair etc. Therefore, observation of the learned Tribunal that there is no cogent evidence to prove that Mandeep Singh was engaged in the work of tyre puncture and tyre repair is not justified. Income of the deceased has been wrongly assessed as Rs.5,000/- per month by the learned Tribunal.

Learned counsel for the respondents do not deny that minimum wages of the un-skilled labourer at the relevant time was Rs.6,467.67/- per month. Income of the deceased is, thus, assessed as Rs.6,500/- per month. In terms of the judgment of Hon'ble Supreme Court in ***National Insurance Company Limited v. Pranay Sethi and others*, *2017(16) SCC 680***, 40% increment has to be afforded for future prospects. Deduction of 50% was correctly effected by learned Tribunal. As the deceased was admittedly 20 years old at the time of the accident, multiplier of 18 was correctly applied by learned Tribunal. Instead of Rs.25,000/- awarded by the learned Tribunal on account of funeral expenses, the claimants are entitled to a sum of Rs.15,000/- each towards funeral expenses and loss of estate. In terms of ***Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors.***, in Civil Appeal No.9581 of 2018 decided on 18.09.2018, both the claimants are also entitled to a sum of Rs.40,000/- each for loss of filial consortium.

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

Sr.No.	***Heads of Claim***	***Amount***
1.	Income # 6500 – 50% = 3,250/-	39,000/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	39,000+15600 (39,000 **x** 40%) = 54,600/-
3.	Total dependency after applying a multiplier of 18	(54,600 **x** 18) = 9,82,800/-
4.	Funeral expenses and loss of estate 15,000 x 2	30,000/-
5.	Loss of filial consortium @ 40,000 x 2	80,000/-
	Grand Total	**Rs.10,92,800/-**

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 entire compensation 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 20, 2019. **(LISA GILL)**
Sunil **JUDGE**

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