IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 5733 of 2016
Date of Decision: February 28, 2019

Manjit Kaur ...... Appellants(s)

Versus

Arvind Kumar and others ..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Kushagra Mahajan, Advocate
for the appellants.

Service upon respondents no.1 & 2 dispensed with
vide order dated 25.10.2017.

Mr. Rajnesh Malhotra, Advocate
for respondent no.3-insurance company.

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LISA GILL, J. (oral)

This appeal has been filed seeking enhancement of the compensation awarded to the claimant on account of death of Gurdeep Singh son of Baldev Singh vide award dated 16.02.2016, passed by learned Motor Accidents Claims Tribunal, Amritsar (hereinafter referred to as 'the Tribunal).

The appellant preferred the petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation on account of the death of her son Gurdeep Singh in a motor vehicle accident, which took place on 06.02.2014, due to the rash and negligent driving of the offending truck bearing registration No. JK-02-AG-6457 by its driver Arvinder Kumar - 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 income of the deceased to be Rs.6,000/- per month awarded a sum of Rs. 4,71,000/- as compensation to the appellant-claimant, the detail of which is as under:-

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	6,000/- p.m.
2.	50% deducted as personal expenses of the deceased	6000 - 3000 = 3,000/-
3.	Compensation after applying a multiplier of 11	3000 x 12 x 11 = 3,96,000/-
4.	Conventional expenses	25,000/-
5.	Loss of love and affection	50,000/-
	Grand Total	**Rs.4,71,000/-**

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

Learned counsel for the appellant while not challenging the income as assessed by the learned Tribunal submits that increment on account of future prospects should be awarded. Moreover, multiplier of 11 has been wrongly applied as the deceased was 34 years old at the time of the accident. It is submitted that compensation under the conventional heads should also be re-worked.

Learned counsel for respondent no.3, however, prays that the impugned award dated 16.02.2016 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.

There is no dispute regarding the income of the deceased as assessed by the learned Tribunal as Rs.6,000/- per month. Gurmeet Singh was admittedly 34 years old at the time of the accident, therefore, 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 towards future prospects is afforded. Deduction of 50% was correctly effected by learned Tribunal as the deceased was a bachelor. Learned Tribunal has, however, erred in applying the multiplier of 11 on the basis of the age of the mother. The matter regarding application of multiplier while assessing the compensation is no longer *res integra*. It has been held by the Hon'ble Supreme Court in ***Munna Lal Jain Vs. Vipin Kumar Sharma*, (2015) 6 SCC 347** that the multiplier is to be applied as per the age of the deceased. Therefore, multiplier of 16 has to be applied. The appellant is entitled to Rs.15,000/- each on account of funeral expenses and loss of estate instead of a consolidated sum of Rs.25,000/- awarded by the learned Tribunal on account of conventional expenses. However, appellant is entitled to a sum of Rs.40,000/- instead of R.50,000/- awarded by the learned Tribunal on account of loss of love and affection for loss of filial consortium in terms of the judgment of Hon'ble Suprme Court in ***Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors*. 2018(4) RCR Civil 333**.

Appellant-claimant is, thus, entitled to compensation which is re-worked as under:-

Sr.No.	***Heads of Claim***	***Amount***
1.	Income # 6000 – 50% = 3000/-	36,000/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	36,000+14,400 (36,000 **x** 40%) = 50,400/-
3.	Total dependency after applying a multiplier of 16	(50,400 **x** 16) = 8,06,400/-
4.	Funeral expenses	15,000/-
5.	Loss of estate	15,000/-
6.	Loss of filial consortium	40,000/-
	Grand Total	**Rs.8,76,400/-**

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 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 28, 2019.
Sunil

(LISA GILL)
JUDGE

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