IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 841 of 2014 (O&M)
Date of decision : October 17, 2019

Ram Karan Singh and another .....Appellants

Versus

Manpreet Singh and another ....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Dinesh Nagar, Advocate for the appellants.

None for the respondents.

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LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to as the 'Tribunal') on account of death of Navdeep Singh alias Sunny vide award dated 30.08.2013.

Brief facts necessary for adjudication of the case are that the appellants/claimants i.e. parents of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Navdeep Singh alias Sunny on 07.11.2010, in a motor vehicle accident, caused due to rash and negligent driving of the motorcycle by respondent No.1.

Learned Tribunal on considering the evidence on record, facts and circumstances concluded that Navdeep Singh alias Sunny died in the accident which took place on 07.11.2010 due to rash and negligent driving of the offending Motorcycle by respondent No. 1. Learned Tribunal while assessing the income of the deceased to be ₹5,000/- per month awarded a sum of ₹3,95,000/- with interest at the rate of 6% per annum from the date of filing of the claim petition till date of actual realisation of the award. 50%

deduction was effected as the deceased was a Bachelor. Multiplier of 13 was applied with reference to the age of parents of the deceased. Additionally, a sum of ₹5,000/- was awarded on account of funeral expenses and last rites.

Aggrieved of the quantum of compensation, claimants have filed this appeal.

Perusal of the file reveals that none has appeared on behalf of respondent No. 2 despite service being complete way back, in September 2015. Mr. Liaqat Ali, Advocate had appeared on behalf of respondent No. 1 but thereafter he had withdrawn from the case on 10.07.2018. Pursuant thereto notice was again issued to respondent No. 1. Despite service being effected again upon respondent No. 1, none has appeared on his behalf. I do not find any justification for adjourning this matter, which was filed in November, 2013.

Learned counsel for the appellants argues that income of the deceased has been wrongly assessed as ₹5,000/- per month by the learned Tribunal whereas it is proved on record that the deceased was running a jewellery shop in the name and style of M/s Sunny Jewellers and he was engaged in flourishing jewellery business as is proved from the invoices/bills produced by the claimants. Multiplier, it is contended, has been wrongly applied with reference to the age of the parents of the deceased. Moreover, compensation under the conventional heads is meagre. It is, thus, prayed that compensation awarded to the claimants be reworked accordingly.

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

There is no dispute that Navdeep Singh alias Sunny lost his life due to injuries received by him in a motor vehicle accident, which took place on 07.11.2010 due to the rash and negligent driving of offending vehicle, by respondent No.1. Finding of the learned Tribunal on this issue has attained finality. It is also not disputed that the deceased was 23 years old at the time of the accident.

The claimants pleaded the deceased to be running a jewellery shop in the name and style of M/s Sunny Jewellers. In order to prove the same, claimant No. 1 has deposed as CW1. Reliance is also sought to be placed on some of the invoices (Exs. P5 to P51) to prove income of the deceased. Perusal of the statement of CW1 Ram Karan Singh reveals that he has admitted in his cross examination that though the shop of a Goldsmith was opened by his son in the year 2008, the same was not registered and was stated to have been taken on rent from the Gurdawara Sahib. CW1 admitted that no income tax return was filed, neither was any account maintained by his son or by CW1 in regard to income and expenditure of the purported business nor was any cash book maintained which could in fact prove the income earned by his son from the profession of a goldsmith. It is further admitted that no bank account had been opened in the name of M/s Sunny Jewellers. It is apparent that purported invoices sought to be relied upon or books, if any, maintained regularly in due course of business by the deceased or his father, are not part of the record. It is matter of record that there is no evidence on record to indicate that the deceased was in fact, running his own jewellery shop, though it is proved on record that the deceased was a goldsmith. This fact is admitted by respondent – RW1 Manpreet Singh.

In this view of the matter, learned Tribunal has correctly assessed income of the deceased with reference to the minimum wage for a highly skilled worker in the State of Punjab at the relevant time. The minimum wage of highly skilled worker in the State of Punjab at the time of accident was admittedly ₹4,867/- per month. Income of the deceased, has, thus, rightly been as assessed by the learned Tribunal as ₹5,000/- per month.

In view of the guidelines of the Hon'ble Supreme Court in the case of **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, increase on account of future prospects at the rate of 40% (₹2000/-) is afforded, as the deceased was 23 years old at the time of accident, which takes income of the deceased to ₹7000/- per month. In view of the guidelines laid down by the Hon'ble Supreme Court in case of ***Smt. Sarla Verma and others Versus Delhi Transport Corporation and another*** 2009 (3) RCR (Civil) 77, 50% deduction is to be applied as the deceased was a bachelor, thereby rendering income of the deceased to be ₹3500/-(7000-3500). The question regarding multiplier to be applied while assessing loss of dependancy i.e. whether it should be applied on the basis of the age of the claimant or the deceased is no longer res integra. The Hon'ble Supreme Court in ***Munna Lal Jain v. Vipin Kumar Sharma, (2015) 6 SCC 347*** has held that multiplier applied should be with reference to the age of the deceased and not of the parents. The deceased, in this case, was admittedly 23 years old and unmarried at the time of the accident, therefore, multiplier of 18 instead of 13 is to be applied. Applying a multiplier of 18, dependancy of the claimants is assessed as ₹7,56,000/- (₹3500x12x18). The claimants are also entitled to ₹15,000/- each for funeral expenses (instead of ₹5000/-) and loss of estate. In terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Limited versus Nanu Ram Alias Chuhru Ram and other 2018 (4) RCR (Civil) 333** and decision dated 14.03.2019 of this Court in **FAO No. 2110 of 2016** titled **Shri Ram General Insurance Company Limited versus Beant Kaur and others,** the appellants i.e. parents of the deceased are entitled to ₹40,000/- on account of loss of filial consortium. Claimants are, thus, entitled to total compensation of ₹8,26,000/- detailed as under:-

Loss of dependency (₹3500x12x18)	₹7,56,000/-
Loss of filial consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹8,26,000/-

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above. Appellants are entitled to interest at the rate of 7.5% instead of 6% per annum on the entire amount from the date of filing of the petition till realization.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants shall enure.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

(Lisa Gill)
Judge

October 17, 2019
rts

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