IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O. No.7090 of 2015(O&M)
Date of Decision: 01.10.2019

Sonia Garg and others

......Appellants.

Versus

Chand Singh and others ...... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.S.R.Hooda, Advocate
for the appellants.

Ms. Priya Deep, Advocate
for Mr. Sanjeev Kodan, Advocate
for respondent no.3.

Mr. Punit Jain, Advocate
for respondent no.4.

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LISA GILL, J.

This appeal has been filed by the claimants seeking enhancement of compensation awarded to them by the learned Motor Accident Claims Tribunal, Jind (for short, the 'Tribunal') vide impugned award dated 01.05.2015, on account of death of Krishan Kumar in a motor vehicle accident.

Brief facts necessary for the adjudication of the case are that, the claimants filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Krishan Kumar, who lost his life in a motor vehicle accident which took place on 16.02.2013. FIR No.71 dated 18.02.2013, under Sections 279/304A/427 IPC, Police Station Bihta Sr. Division Danapur, District Patna, was registered against respondent

No.2-driver. It is pleaded that deceased-Krishan Kumar was posted as Sergeant bearing No. 711692, stationed at Air Force Station, Bihta at Patna (Bihar), earning a salary of about ₹30,151/- per month. Compensation to the tune of ₹80/- lakhs was prayed for.

Learned Tribunal on considering the facts and evidence on record concluded that the accident in question took place due to the rash and negligent driving of truck bearing registration No.HR-55-G-3634 by respondent No.2- Halim Mian. The deceased was held to be 38 years old. Learned Tribunal while assessing income of the deceased to be ₹31,400-/- per month, awarded compensation of ₹43,65,000/- to the claimants. Deduction to the extent of 1/ 4th was effected. Multiplier of 15 was applied. ₹1,00,000/- was awarded towards loss of consortium. ₹20,000/- was awarded towards last rites/ceremonies. ₹6000/- was awarded towards loss of estate.

Aggrieved therefrom, present appeal has been filed by the appellants-claimants seeking enhancement of the compensation.

Learned counsel for the appellants does not dispute income of the deceased, as assessed by the learned Tribunal but prays that increment on account of future prospects be afforded. It is further submitted that compensation under the conventional heads be reworked in terms of judgments of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009** and **Magma General Insurance Company Limited versus Nanu Ram Alias Chuhru Ram and other 2018 (4) RCR (Civil) 333**. It is, thus, prayed that total compensation awarded to the claimants be enhanced accordingly.

Per contra, learned counsel for respondent No.3-Insurance company refutes the abovesaid averments and submits that just and reasonable compensation has been awarded by the learned Tribunal, which does not call for any enhancement. 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 death of Krishan Kumar in a motor vehicle accident which took place on 16.02.2013 due to the rash and negligent driving of the offending truck bearing registration No.HR-55-G-3634 by respondent No.2-Halim Mian.

It is a matter of record that Krishan Kumar was 38 years old at the time of accident, his date of birth being 21.03.1974 and he was serving the Indian Air Force as a Sergeant, bearing No. 711692, Bihta, at Patna (Bihar). He was in receipt of monthly salary of ₹31,310/- as is reflected in his pay slip, Ex.P-3. Income of the deceased to the tune of ₹31,400/- per month, has been correctly assessed by the learned tribunal on the basis of the evidence on record. In view of the guidelines of the Hon'ble Supreme Court in the case of **Pranay Sethi (supra)**, increase on account of future prospects at the rate of 50% is afforded, as the deceased was 38 years old at the time of accident.

Learned counsel for the Insurance Company has sought to raise an objection regarding deduction of 1/ 4^{th} effected by the learned tribunal, while submitting that father of the deceased was not dependent upon him. However, I do not find any merit in this argument. Apart from the fact that no appeal has been preferred by the Insurance Company nor any crossobjections filed in this regard, a perusal of the record reveals that father of the deceased has been specifically mentioned to be an aged person, totally dependent upon the deceased. I find the evidence to be credible and there is indeed nothing on record to rebut the same. Therefore, deduction of 1/ 4th has been correctly effected by the learned tribunal. Multiplier of 15 has been correctly applied by the learned tribunal.

Appellant no.1, is entitled to a sum of ₹40,000/- instead of ₹1,00,000/- towards loss of consortium. Instead of a sum of ₹20,000/-, appellants are entitled to ₹15,000/- towards loss of funeral expenses. Instead of a sum of ₹6000/-, appellants are entitled to ₹15,000/- towards loss of estate. Appellants No.2 and 3, are entitled to a sum of ₹40,000/- towards loss of parental consortium. Respondent no.5-father of the deceased has since passed away, therefore, no compensation is to be awarded towards loss of filial consortium. Reference in this regard can gainfully be made to the judgement of the Hon'ble Supreme Court in **Magma General Insurance Company Ltd. v. N anu Ram Alias Chuhru Ram & Ors., 2018(4) RCR(Civil) 333** as well as **decision dated 14.03.2019 of this Court in FAO No.2110 of 2016 (Shri Ram General Insurance Company Ltd. v. Beant Kaur and others)**. .

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

Sr. No.	Heads of Claim	Amount
1.	Income	₹3,76,800/- p.a (31,400 x 12)
2.	Total income after addition at the rate of 50% on account of future prospects	₹3,76,800 + (31,400 x 50%) = ₹5,65,200/-
3.	Income after 1/4th	₹5,65,200 – (5,65,200 x

	deduction on account of personal expenses	50) = ₹4,23,900/-
4.	Total dependency after applying a multiplier of 15	(4,23,900 x15) = ₹ 63,58,500/-
5.	Loss of consortium	₹40,000/-
6.	Loss of estate	₹15,000/-
7.	Funeral expenses	₹15,000/-
8.	Parental consortium	₹40,000/-
	Total	**₹64,68,500/-**

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. Manner of disbursement as determined by the learned Tribunal shall remain the same.

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

[LISA GILL]
Judge

01.10.2019
s.khan

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