IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 6542 of 2016 (O&M)
Date of decision : December 17, 2019

Smt. Jatun and others ....Appellants

Versus

Raunak Singh and others ....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Arvinder Arora, Advocate
for the appellants.

None for respondent No. 1.

Mr. Anmol Singh Sandhu, AAG, Punjab
for respondents No. 2 & 2(A).

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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, Ambala (hereinafter referred to as the 'Tribunal') on account of death of Alamdeen vide award dated 13.07.2015.

Brief facts necessary for adjudication of the case are that the appellants/claimants i.e. widow and children of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Alamdeen due to injuries received by him in a motor vehicle accident, which place on 23.01.2013 caused due to rash and negligent driving of the offending vehicle, i.e. Bus bearing registration No. PB-08-BR-9332, by respondent No.1.

Learned Tribunal on considering the evidence on record, facts and circumstances concluded that Alamdeen died in the accident which took place on 23.01.2013 due to rash and negligent driving of the offending Bus bearing registration No. PB-08-BR-9332 by respondent No. 1. Learned Tribunal while assessing the income of the deceased to be ₹7,000/- per month awarded a sum of ₹8,65,000/- with interest at the rate of 7.5% per annum from the date of filing of the claim petition till date of actual realisation of the award. Deduction of 1/3rd was effected, keeping in view the number of dependants. Multiplier of 15 was applied as the deceased was 40 years old at that time. A sum of ₹50,000/- each on account of loss of consortium as well as loss of love and affection, besides, a sum of ₹25,000/- on account of funeral expenses was awarded. Additionally, appellant No. 4 is entitled to a sum of ₹50,000/- for loss of love and affection.

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

Learned counsel for the appellants does not raise any serious challenge to the income as assessed by the learned Tribunal. However, it is submitted that increment towards future prospects be afforded and deduction towards personal expenses be correctly effected. It is further stated that compensation under the conventional heads be re-worked 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.**

Learned counsel for respondents No. 2 & 2(A) while refuting the arguments raised by learned counsel for the appellants submits that adequate compensation has been awarded by the learned Tribunal which calls for no further enhancement. It is submitted that the compensation has been rightly assessed, thus, impugned award dated 13.07.2015 be upheld.

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

There is no dispute that Alamdeen lost his life on 29.01.2013, due to injuries received by him in a motor vehicle accident, which took place on 23.01.2013 due to the rash and negligent driving of Bus bearing registration No. PB-08-BR-9332, by respondent No.1. Finding of the learned Tribunal on this issue has attained finality. It is also not disputed that the deceased was 40 years old at the time of the accident.

There is no dispute regarding income of the deceased to be ₹7,000/- per month as assessed by the learned Tribunal. Income of the deceased, as assessed by the learned Tribunal, is upheld as ₹7,000/- per month. In view of the guidelines of the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), increment on account of future prospects at the rate of 25% (₹1750/-) is afforded, as the deceased was 40 years old at the time of accident, which takes income of the deceased to ₹8750/- per month. Learned Tribunal has effected deduction of $1/3^{rd}$ while observing that it is only the widow and minor son who are considered as dependents upon the deceased as one of the sons was 19 years old and other about 21 at the time of the accident. After considering the evidence on record, in my considered opinion, it is a deduction of $1/4^{th}$, which has to be effected. This is so for the reason that the two sons, who though had attained majority at the time of the accident, are proved to be dependent on and living together with their parents. There is nothing on record to rebut the claim set up by the appellants that all of them were dependent upon their father. Accordingly, deduction of $1/4^{th}$ is to be applied, thereby rendering income of the deceased to be ₹6562/-(8750-2188). Applying a multiplier of 15, dependancy of the claimants is assessed as ₹11,81,160/- (₹6562x12x15). The claimants are also entitled to ₹15,000/- for funeral expenses (instead of ₹25,000/-). Instead of ₹50,000/- for loss of love and affection and another sum of ₹50,000/- awarded to appellant No. 4, the appellants are entitled to ₹15,000/- on account of loss of estate. The claimant - widow is entitled to ₹40,000/- on account of loss of consortium (instead of ₹50,000/-). 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,** appellants No. 2 to 4 i.e. children of the deceased are entitled to ₹40,000/- on account of loss of parental consortium. Alamdeen was admitted in hospital on 23.01.2013 and he died on 29.01.2013 in the hospital itself. Though no specific evidence in regard to the expenses on medical treatment is available, but it is evident that some expenses would necessarily have been incurred. Thus, ₹30,000/- is awarded towards medical expenses. Claimants are, thus, entitled to total compensation of ₹13,21,160/- detailed as under:-

Loss of dependency (₹6562x12x15)	₹11,81,160/-
Loss of spousal consortium	₹40,000/-
Loss of parental consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Medical expenses	₹30,000/-
Total	₹13,21,160/-

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% per annum on the enhanced amount from the date of filing of the petition till realization.

Appellant No. 1 i.e. widow of the deceased is entitled to 60% of the compensation awarded. 40% of the compensation awarded shall be equally apportioned amongst appellants No. 2 to 4.

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

(Lisa Gill)
Judge

December 17, 2019
rts

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