IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 8387 of 2015 (O&M)
Date of Decision: February 20, 2019

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

Versus

Sukhwinder Singh alias Ghola and others ..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Deepak Kumar Sharma, Advocate
for the appellants.

Service upon respondents no.1, 2 and 4 dispensed with
vide order dated 22.04.2016.

Mr. Radhey Shyam Sharma, Advocate
for respondent no.3-insurance company.

*****

LISA GILL, J. (oral)

This appeal has been filed seeking enhancement of the compensation awarded to the claimants vide award dated 07.07.2015, passed by learned Motor Accidents Claims Tribunal, Fatehgarh Sahib (hereinafter referred to as 'the Tribunal).

Undisputed facts are that Lakhvir Singh (since deceased) son of the appellants lost his life in a motor vehicle accident, which took place on 28.05.2014, due to the rash and negligent driving of the offending truck bearing registration No. PB-23J-5328 by its driver Sukhwinder Singh alias Ghola - respondent no.1. Finding of the learned Tribunal on this issue has attained finality.

The present appellants along with respondent no.4 preferred the petition under Section 166 of the Motor Vehicles Act seeking compensation on account of the death of Lakhvir Singh in the said motor accident.

Learned Tribunal on considering the evidence on record, facts and circumstances, while accepting that the deceased was a skilled painter, assessed income of the deceased to be Rs.7,000/- per month and awarded a sum of Rs. 7,39,000/- as compensation to the appellants-claimants, the detail of which is as under:-

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	7,000/- p.m.
2.	50% deducted as personal expenses of the deceased	7000 - 3500 = 3,500/-
3.	Compensation after applying a multiplier of 17	3500 x 12 x 17 = 7,14,000/-
4.	Funeral expenses	25,000/-
	Grand Total	**Rs. 7,39,000/-**

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

Learned counsel for the appellants submits that even the minimum wage of a skilled labourer in the State of Punjab was Rs. 8144.67/- per month at the time of accident, therefore, learned Tribunal has erred in assessing the income of the deceased to be Rs.7,000/- per month. Moreover, increment on account of future prospects has not been afforded. Compensation under the conventional heads should also be enhanced.

Learned counsel for respondent no.3, however, prays that the impugned award dated 07.07.2015 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 Lakhvir Singh was admittedly 28 years old at the time of the accident. Learned Tribunal has accepted the deceased to be engaged in the work of painting and white wash. There is no challenge to this finding. Admittedly, the minimum wage of the skilled labourer in the State of Punjab at the time of the accident was Rs.8,144.67/- per month. Income of the deceased is, thus, assessed as Rs.8,150/- 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 towards future prospects has to be afforded. As the deceased was 28 years old at the time of the accident, multiplier of 17 was correctly applied by learned Tribunal. Deduction of 50% was correctly effected by learned Tribunal. Instead of Rs.25,000/- afforded 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*. 2018(4) RCR Civil 333**, 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 # 8150 – 50% = 4075/-	48,900/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	48,900+19560 (48,900 **x** 40%) = 68,460/-
3.	Total dependency after applying a multiplier of 17	(67,200 **x** 17) = 11,63,820/-
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.12,73,820/-**

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 awarded 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.
Sunil

(LISA GILL)
JUDGE

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