IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1709-2017
Date of Decision: October 01, 2019

Praveen Rani and others

...... Appellants(s)

Versus

Angrej Singh (deceased) through LR and others

..... Respondent(s)

with

FAO- 2049-2017 (O&M)

Harjeet Kaur ...... Appellants(s)

Versus

Angrej Singh (deceased) through LR and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Rakesh Nagpal, Advocate
for the appellants.

Service upon respondents no.1 & 2 dispensed with
vide order dated 17.01.2019.

Mr. Amit Kundra, Advocate
for respondent no.3-insurance company.

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LISA GILL, J.

This judgment shall dispose of FAO-1709-2017 (Praveen Rani and others Vs. Angrej Singh (deceased) through LR and others) as well as FAO-2049-2017 (Harjeet Kaur Vs. Angrej Singh(deceased) through LR and others) as both the above noted appeals arise out of award dated 27.07.2016, passed by the learned Motor Accident Claims Tribunal, Sirsa (hereinafter referred to as 'the Tribunal).

Brief facts necessary for adjudication of the cases are that a claim petition was preferred seeking compensation on account of death of Sanjay i.e. the husband and father of the claimants and the second claim petition was preferred by the mother of the deceased, Harpreet Singh. It is pleaded that on 06.04.2012 at about 9:30 P.M., Sanjay (deceased) was going from his house towards the bus stand Sirsa on his motorcycle. When he was coming towards the bus stand from the fly-over at Hisar Road, a Tata Canter bearing registration No. PB-03R-9011 was proceeding ahead of Sanjay and it was being driven in a rash and negligent manner. At that time another motorcyclist i.e. Harpreet (deceased) carrying a pillion rider namely Lucky Monga also reached near the canter. It is pleaded that the driver of the offending canter struck both the motorcyclists, due to which the motorcyclists fell on the road and sustained injuries on their persons. They were taken to General Hospital, Sirsa where Harpreet was declared dead and injured Sanjay was referred to PGIMS, Rohtak where he also succumbed to his injuries. FIR No. 233 dated 07.04.2012 under Sections 279, 337, 304-A IPC at P.S. City Sirsa was registered against the driver of the offending canter. Deceased Sanjay was pleaded to be 32 years old at the time of the accident and engaged in some business at his village, earning a sum of Rs.15,000/- per month. He is additionally pleaded to be earning Rs.10,000/- per month from sale of milk. Compensation was accordingly sought.

Harpreet Singh (deceased) was pleaded to be 22 years old, working as a Clerk in the office of Mr. Deepak Monga, Advocate, Ellenabad and earning a sum of Rs.15,000/- per month. It is stated that his family consisted of his old widowed mother and younger brother as his father had passed away.

Learned Tribunal on considering the evidence on record concluded that the accident in question took place due to the rash and negligent driving of the offending canter bearing registration No. PB-03R-9011, by its driver Angrej Singh-respondent no.1 and that both Sanjay and Harpreet lost their lives due to the injuries sustained by them in the motor vehicle accident. Sanjay (deceased) was concluded to be 38 years old with reference to the Voter I.D. Card Ex. P-13. His income was assessed to be Rs.3,000/- per month with reference to the minimum wage purportedly available to an unskilled labourer. Learned Tribunal awarded a sum of Rs.7,65,000/- as compensation to the claimants, which is detailed as under:-

Sr. No.	**Heads**	**Calculations**
1.	Income	3,000/- per month
2.	Income after deducting 1/3rd as personal and living expenses of the deceased	3,000 – 1/3rd = 2,000/- per month
3.	Income after addition at the rate of 50% on account of future prospects.	2000 + (2000 x 50%) =3,000/-
4.	Dependency after applying multiplier of 15	3,000 x 12 x 15 = 5,40,000/-
5.	Funeral expenses and transportation	25,000/-
6.	Loss of consortium	1,00,000/-
7.	Loss of love and affection	1,00,000/-
	Total	**Rs.7,65,000/-**

The deceased Harpreet Singh was accepted to be 22 years old and his income was also assessed as Rs.3,000/- per month. Learned Tribunal awarded a sum of Rs.6,11,000/- as compensation to the claimant, which is detailed as under:-

Sr. No.	**Heads**	**Calculations**
1.	Income	3,000/- per month
2.	Income after deducting 1/2 as personal and living expenses of the deceased	3,000 – 1/2 = 1,500/- per month
3.	Income after addition at the rate of 50% on account of future prospects.	1,500 + (2000 x 50%) = 2,250/-
4.	Dependency after applying multiplier of 18	2,250 x 12 x 18 = 4,86,000/-
5.	Funeral expenses and transportation	25,000/-
6.	Loss of love and affection	1,00,000/-
	Total	**Rs.6,11,000/-**

Learned counsel for the appellants vehemently argues that the learned Tribunal has grossly erred in assessing income of both the deceased as Rs.3,000/- per month. It is submitted that even the minimum wage available to an unskilled labourer in the State of Haryana at the relevant time i.e. 06.04.2012 was Rs.4,847/- per month. As far as the deceased Harpreet Singh is concerned, he is proved to be working as a Clerk with an Advocate. Therefore, learned Tribunal in both the cases has wrongly assessed the income of the deceased. It is further submitted that increment towards future prospects should be awarded, though it is fairly stated that compensation under the conventional heads be re-worked in accordance with the judgments of Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others,** ***2017(16) SCC 680*** and ***Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors.*** **2018(4) RCR Civil 333**.

Learned counsel for the insurance company refutes the above said arguments while submitting that just and reasonable compensation has been awarded by the learned Tribunal, which calls for no enhancement. Dismissal of this appeals is prayed for.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

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The deceased Sanjay was admittedly 38 years old at the time of the accident. Learned counsel for the appellants is unable to deny that there is indeed no cogent evidence on record to prove the vocation or exact income of the deceased. In such a situation, income of the deceased necessarily has to be assessed with reference to the minimum wage available in the State at the relevant. It is a matter of record that minimum wage of an unskilled labourer in the State of Haryana at the time of the accident was Rs.4,847/- per month. Income of the deceased is thus assessed as Rs.4,850/- per month instead of Rs.3,000/- per month as awarded by the learned Tribunal.

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 (instead of 50%) has to be afforded. Deduction of 1/3rd was correctly effected by learned Tribunal. As the deceased was admittedly 38 years old at the time of the accident, multiplier of 15 was correctly applied by learned Tribunal. Claimants are entitled to a sum of Rs.15,000/- each on account of funeral expenses and loss of estate, instead of Rs.25,000/- awarded by the learned Tribunal towards funeral expenses and transportation. Instead of a sum of Rs.1,00,000/- each awarded towards loss of consortium and loss of love and affection, appellant no.1 is entitled to a sum of Rs.40,000/- on account of loss of spousal consortium. Appellants-claimants no.2 & 3 are entitled to a sum of Rs.40,000/- towards loss of parental consortium. Reference in this regard can gainfully be made to the judgment of the Hon'ble Supreme Court in ***Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors.*** **2018(4) RCR Civil 333**, as well as decision dated 14.03.2019 of this Court in FAO-2011-2016, title ***Shri Ram General Insurance Company Ltd. Vs. Beant Kaur and others***.

Appellants-claimants in FAO No. 1709 of 2017 are, thus, entitled to compensation which is re-worked as under:-

Sr. No.	**Heads**	**Calculations**
1.	Income	4,850/- per month
2.	Income after deducting 1/3rd as personal and living expenses of the deceased	4,850 – 1/3rd = 3,233/- per month
3.	Income after addition at the rate of 40% on account of future prospects.	3,233 + (3,233 x 40%) =4,526/-
4.	Dependency after applying multiplier of 15	4,526 x 12 x 15 = 8,14,680/-
5.	Loss of estate	15,000/-

6.	Funeral expenses	15,000/-
7.	Loss of spousal consortium to appellant no.1	40,000/-
8.	Loss of parental consortium to appellants no.2 and 3	40,000/-
	Total	**Rs.9,24,680/-**

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 at the rate of 7.5% per annum on the enhanced amount, from the date of filing of the claim petition till realization. Ratio of apportionment as well as manner of disbursement of compensation amongst the claimants as determined by the learned Tribunal shall remain the same.

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The deceased Harpreet is claimed to be working as a Clerk with an Advocate at the time of his death. The said Advocate namely Deepak Monga has duly testified before the learned Tribunal as PW-4. He has specifically deposed that the deceased Harpreet was working as a Clerk with him at the time of his death. Though PW-4 has testified that the deceased was earning a sum of Rs.15,000/- per month, however, there is no evidence on record to prove the exact income of the deceased. However, learned Tribunal has clearly erred in assessing the income of the deceased to be Rs.3,000/- per month. Keeping in view the facts and circumstances as well as the fact that the deceased was working as a Clerk with PW-4, it is considered just and appropriate to assess income of the deceased Harpreet with reference to the minimum wage available to a skilled labourer at the time of the accident i.e. Rs. 5,100/- per month. His income is accordingly assessed as Rs.5,100/- 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. Deduction of 1/2 was correctly effected by learned Tribunal. As the deceased was admittedly 22 years old at the time of the accident, multiplier of 18 was correctly applied by learned Tribunal. Claimant is entitled to a sum of Rs.15,000/- each on account of funeral expenses and loss of estate instead of Rs.25,000/- awarded by the learned Tribunal towards funeral expenses and transportation. Instead of a sum of Rs.1,00,000/- awarded towards loss of love and affection, appellant is entitled to a sum of Rs.40,000/- on account of loss of filial consortium.

Appellant-claimant in FAO No. 2049 of 2017 is, thus, entitled to compensation which is re-worked as under:-

Sr. No.	**Heads**	**Calculations**
1.	Income	5,100/- per month
2.	Income after deducting 1/2 as personal and living expenses of the deceased	5,100 – 1/2 = 2,550/- per month
3.	Income after addition at the rate of 40% on account of future prospects.	2,550 + (2,550 x 40%) = 3,570/-
4.	Dependency after applying multiplier of 18	3,570 x 12 x 18 = 7,71,120/-
5.	Loss of estate	15,000/-
6.	Funeral expenses	15,000/-
7.	Loss of filial consortium	40,000/-
	Total	**Rs.8,41,120/-**

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Claimant shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount, from the date of filing of the claim petition till realization.

Both the appeals are accordingly disposed of.

October 01, 2019.

Sunil

(LISA GILL)
JUDGE

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