

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No. 1885 of 2017 (O&M)

Date of decision : May 08, 2019

Tarlochan Singh through LRs and others

.....Appellants

Versus

Sham Lal Yadav and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Ms. Avin Kaur Sandhu, Advocate
for the appellants.

Mr. Arpan Sabharwal, Advocate
for respondents No. 1 and 2.

Mr. Aseem Aggarwal, Advocate
for respondent No. 3.

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 Manmohan Singh vide award dated 20.10.2015.

Brief facts necessary for adjudication of the case are that the claimants i.e. children and parents of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Manmohan Singh on 09.11.2013 in a motor vehicle accident caused due to rash and negligent driving of the offending vehicle, i.e. Truck trolly bearing registration No. PB-10-CZ-2817 by respondent No.1. FIR No. 165 dated 09.11.2013 under Sections 279, 427, 304A IPC was registered at Police Station Sahnewal.

Learned Tribunal on considering the evidence on record, facts and circumstances concluded that Manmohan Singh died in the accident which took place on 09.11.2013 due to rash and negligent driving of the offending Truck trolly bearing registration No. PB-10-CZ-2817 by respondent No.1. Learned Tribunal while observing that there is no specific evidence on record to conclude that deceased Manmohan Singh was earning a sum of ₹20,000/- by doing the work of tailoring, assessed his income as ₹6,000/- per month and awarded a sum of ₹8,31,000/- 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 1/4th was effected, keeping in view the number of dependants. Multiplier of 14 was applied as the deceased was 43 years old at that time. Additionally, a sum of ₹50,000/- on account of loss of love and affection and a sum of ₹25,000/- on account of funeral expenses was awarded.

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

Learned counsel for the appellants argues that even if the deceased is not proved to be earning ₹20,000/- per month, the minimum wages for a tailor in the State of Punjab at the time of accident was ₹7924.75, as per notification dated 17.09.2013, therefore, income of the deceased has been wrongly assessed as ₹6,000/- per month. It is further submitted that increment on account of future prospects should be afforded. It is, thus, prayed that compensation awarded to the claimants be reworked accordingly.

Learned counsel for the respondent - insurance company 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, thus, prayed that impugned award dated 20.10.2015 be upheld.

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

There is no dispute that Manmohan Singh lost his life in a motor vehicle accident, which took place on 09.11.2013 caused due to the rash and negligent driving of Truck trolly bearing registration No. PB-10-CZ-2817 by respondent No.1. Finding of the learned Tribunal on this issue has attained finality. It is also not disputed that the deceased was 43 years old at the time of the accident. The claimants have specifically pleaded that the deceased was working as a tailor though there is no specific documentary evidence on record to indicate the exact income of the deceased. There is no evidence on record to disbelieve the version of the claimants that the deceased was a tailor. It cannot be disputed that the minimum wages of a tailor in the State of Punjab was ₹7924.75, as per notification dated 17.09.2013. Therefore, income of the deceased is assessed as ₹7,925/- 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 25% (₹1981/-) is afforded, as the deceased was 43 years old at the time of accident, which takes income of the deceased to ₹9,906/- 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**, deduction of 1/4th is to be applied as number of dependants is five (5), thereby rendering

income of the deceased to be ₹7429.5/-(9906-2476.5). Applying a multiplier of 14, dependency of the claimants is assessed as ₹12,48,156/- (₹7429.5x12x14). The claimants are also entitled to ₹15,000/- each for funeral expenses 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**. appellants No. 1 and 2 i.e. parents of the deceased are entitled to ₹40,000/- on account of loss of filial consortium and appellants No. 3 to 5 i.e. children of the deceased are entitled to ₹40,000/- on account of loss of parental consortium. Claimants are, thus, entitled to total compensation of ₹13,58,156/- detailed as under:-

Loss of dependency (₹7429.5x12x14)	₹12,48,156/-
Loss of parental consortium	₹40,000/-
Loss of filial consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹13,58,156/-

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.

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.

May 08, 2019
rts

(Lisa Gill)
Judge

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