IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

FAO No. 7959 of 2016(O&M)

Date of Decision: October 17 , 2019.

Balwinder Kaur and others ...... APPELLANT (s)

Versus

Himachal Road Transport Corporation, Shimla and others

...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Ms. Manju Sillay, Advocate for
Mr. R.C.Gupta, Advocate
for the appellants.

Mr. Ravinder Arora, Advocate
for respondents No.1 and 2.

*****

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, Ambala (for short, the 'Tribunal') vide impugned award dated 10.02.2016 on account of death of Manpreet Singh @ Gaurav in a motor vehicle accident.

Brief facts necessary for the adjudication of the case are that, the appellants filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Manpreet Singh @ Gaurav, who lost his life in a motor vehicle accident which took place on 30.12.2012. FIR was lodged in respect to the accident and respondent No.3-driver was facing trial in the said criminal proceedings. The deceased was pleaded to be 23 years old and working as a mason, earning a sum of ₹16,000/- per month. Compensation was thus prayed for.

Learned Tribunal on considering the facts and evidence on record concluded that Manpreet Singh @ Gaurav died due to the injuries received by him in an accident which took place due to the rash and negligent driving of bus bearing registration No.HP-53-8937 by respondent No.3-Joginder Kumar. Learned Tribunal while assessing income of the deceased as ₹6,000/- per month, awarded a total amount of ₹6,15,000/- to the claimants. Deduction to the extent of 50% was effected. Multiplier of 15 was applied. ₹25,000/- was awarded towards last rites, besides, ₹50,000/- to appellant No.1 on account of loss of love and affection. Learned Tribunal further held only appellant No.1, mother of the deceased, to be dependant upon him. Accordingly, compensation was awarded to appellant No.1. No serious objection thereto has been raised.

Learned counsel for the appellants while not raising any challenge to the income of the deceased as assessed by the learned Tribunal, submits that increment on account of future prospects should be afforded. It is submitted that the learned Tribunal has erred in applying the multiplier. It is thus prayed that the amount of compensation awarded to appellant No.1 be enhanced accordingly.

Per contra, learned counsel for respondents No.1 and 2 refutes the abovesaid averments and prays for dismissal of the appeal. It is submitted that just and reasonable has been awarded by the learned Tribunal, which does not call for any enhancement.

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

There is no dispute regarding death of Manpreet Singh @ Gaurav, aged 23 years, in a motor vehicle accident which took place on 30.12.2012 due to the rash and negligent driving of the offending vehicle bearing registration No.HP-53-8937 by respondent No.3-Joginder Kumar. Finding of the learned Tribunal in this regard has attained finality.

There is no dispute regarding income of the deceased to be ₹6,000/- per month as assessed by the learned Tribunal. Claimant is however entitled to increase in income on account of future prospects at the rate of 40% in terms of the judgment of the Hon'ble Supreme in **National Insurance Company Limited v. Pranay Sethi and others,** ***2017(16) SCC 680***.

The matter regarding application of multiplier while assessing the compensation is no longer res integra. The Hon'ble Supreme Court in **Munna Lal Jain v. Vipin Kumar Sharma, (*2015) 6 SCC 347*** has specifically held that multiplier is to be applied with reference to the age of the deceased. The deceased in this case was admittedly 23 years old at the time of the accident. Therefore, multiplier of 18 instead of 15 is required to be applied in this case.

Deduction to the extent of 50% has been correctly effected. Instead of ₹25,000/- towards funeral expenses, ₹15,000/- is awarded. Additionally, ₹15,000/- is awarded to the appellant on account of loss of estate. Appellant No.1 is held entitled to ₹40,000/- on account of loss of filial consortium, instead of ₹50,000/- towards loss of love and affection, in terms of 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 No.2110 of 2016 (Shri Ram General Insurance Company Ltd. v. Beant Kaur and others).

Appellant No.1 is, thus, entitled to compensation which is re-worked as under:-

Sr.No.	*Heads of Claim*	*Amount*
1.	Income	6,000 per month i.e., 72,000 per annum
2.	Total income after addition at the rate of 40% on account of future prospects	72,000 + (72,000 **x** 40%) = 1,00,800
3.	Deduction of 50% on account of personal expenses	1,00,800 – (1,00,800 **x** 1/2) = 50,400
4.	Dependancy after applying a multiplier of 18	(50,400 **x** 18) = 9,07,200
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of filial consortium	40,000
	Grand Total	₹9,77,200/-

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 on the enhanced amount at the rate of 7.5% per annum from the date of filing of the petition till realization.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

October 17 , 2019.
'om'

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