IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 1150 of 2018 (O&M)
Date of decision : July 24, 2019

Manjit Kaur and others .....Appellants

Versus

Gautam and others ....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Ram Bilas Gupta, Advocate for
Mr. Parveen Chauhan, Advocate
for the appellants.

Mr. Rajneesh Malhotra, Advocate
for respondent No. 3.

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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, Karnal (hereinafter referred to as the 'Tribunal') on account of death of Satnam Singh vide award dated 06.03.2012.

Brief facts necessary for adjudication of the case are that the claimants i.e. parents and brother of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Satnam Singh on 27.09.2009 in a motor vehicle accident caused due to rash and negligent driving of the offending vehicle, i.e. Truck bearing registration No. HR-38E-4308 by respondent No.1.

Learned Tribunal on considering the evidence on record, facts and circumstances concluded that Satnam Singh died in the accident which took place on 27.09.2009 due to rash and negligent driving of the offending Truck bearing registration No. HR-38E-4308 by respondent No. 1. Learned

Tribunal while assessing the income of the deceased to be ₹4000/- per month awarded a sum of ₹3,56,000/- with interest at the rate of 9% per annum from the date of filing of the claim petition till date of actual realisation of the award. 50% deduction was effected as the deceased was a bachelor. Multiplier of 14 was applied. A sum of ₹10,000/- on account of funeral expenses and transportation was awarded. Additionally, a sum of ₹10,000/- was awarded on account of medical expenses.

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

Learned counsel for the appellants submits that income of the deceased has been wrongly assessed as ₹4,000/- per month. It is further submitted that multiplier has also been incorrectly applied and increment on account of future prospects should be afforded. Compensation under the conventional heads, it is stated, is meagre. It is, thus, prayed that compensation awarded to the claimant be enhanced.

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 submitted that the compensation has been rightly assessed, thus, impugned award dated 06.03.2012 be upheld.

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

There is no dispute that Satnam Singh lost his life in a motor vehicle accident, which took place on 27.09.2009 caused due to the rash and negligent driving of Truck bearing registration No. HR-38E-4308 driven by respondent No.1. Finding of the learned Tribunal on this issue has attained finality. It is also not disputed that the deceased was 21 years old at the time of the accident.

Learned Tribunal has disbelieved the claim set up by the claimants that the deceased was working as a driver with Pesticide Company Comson Bio-Technologies Limited, earning a salary of ₹6,000/- per month. It is observed that no document has been placed on record neither has any witness been examined to prove that he was working with the said Firm. Learned counsel for the appellants is unable to deny that there is indeed no evidence to prove that the deceased was employed with the said Firm on the salary as claimed. However, it is relevant to note that the minimum wage of a skilled labourer at the time of accident in the State of Haryana was ₹4,564/- per month. Thus, income of the deceased is assessed as ₹4,564/- instead of ₹4000/- 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 40% (₹1826/-) is afforded, as the deceased was 21 years old at the time of accident, which takes income of the deceased to ₹6390/- 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, 50% deduction is to be applied as the deceased was a bachelor, thereby rendering income of the deceased to be ₹3195/-(6390-3195). The question regarding multiplier to be applied while assessing loss of dependancy i.e. whether it should be applied on the basis of the age of the claimant or the deceased is no longer res integra. The Hon'ble Supreme

Court in ***Munna Lal Jain v. Vipin Kumar Sharma, (2015) 6 SCC 347*** has held that multiplier applied should be with reference to the age of the deceased and not of the parents. The deceased, in this case, was admittedly 21 years old and unmarried at the time of the accident, therefore, multiplier of 18 instead of 14 is to be applied. Dependancy of the claimants is assessed as ₹6,90,120/- (₹3195x12x18). The claimants are also entitled to ₹15,000/- (instead of ₹10,000/-) 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. Claimants are, thus, entitled to total compensation of ₹7,70,120/- detailed as under:-

Loss of dependency (₹3195x12x18)	₹6,90,120/-
Loss of filial consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Medical expenses	₹10,000/-
Total	₹7,70,120/-

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. It is clarified at this stage that the appellants shall not be entitled to any interest on the period of delay of 1935 days in re-filing of the appeal as the delay in this case was specifically condoned on the categoric stand of the appellants that they shall not claim any interest for this period.

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.

(Lisa Gill)
Judge

July 24, 2019
rts

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