

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

FAO No. 4257 of 2017 (O&M)

Date of decision : July 04, 2019

Sheela Devi and another

.....Appellants

Versus

Ram Niwas and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. S.K. Yadav, Advocate
for the appellants.

Mr. M.B. Jain, 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, Rewari (hereinafter referred to as the 'Tribunal') on account of death of Pankaj vide award dated 21.12.2016.

Brief facts necessary for adjudication of the case are that the claimants i.e. parents of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Pankaj on 01.04.2015 in a motor vehicle accident caused due to rash and negligent driving of the offending vehicle, i.e. motorcycle bearing registration No. HR-36W-3407 by respondent No.1. The deceased was claimed to be employed with M/s India Japan Lighting Company Limited, earning a sum of ₹10,000/- per month.

Learned Tribunal on considering the evidence on record, facts and circumstances concluded that Pankaj died in the accident which took place on 01.04.2015 due to rash and negligent driving of the offending motorcycle bearing registration No. HR-36W-3407 by respondent No. 1.

Learned Tribunal while assessing the income of the deceased to be ₹5,813/-

per month awarded a sum of ₹6,47,700/- 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. 50% deduction was effected as the deceased was a bachelor. Multiplier of 18 was applied as the deceased was 20 years old at that time. Additionally, a sum of ₹20,000/- on account of last rites, transportation etc. was also awarded.

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 ₹5,813/- per month by the learned Tribunal whereas it is apparent from Ex. P2, as proved by PW2, that the deceased was receiving a higher salary from his employer. It is further submitted that increment on account of future prospects has not been afforded and compensation under the conventional heads is meagre. It is, thus, prayed that compensation awarded to the claimants be reworked accordingly.

Learned counsel for the respondent - insurance company, however, refutes the said arguments and submits that adequate compensation has been awarded by the learned Tribunal, which calls for no further enhancement. It is, thus, prayed that this appeal be dismissed.

I have heard learned counsel for the appellants as well as respondent No. 3 and have gone through the available file.

There is no dispute that Pankaj lost his life in a motor vehicle accident, which took place on 01.04.2015 caused due to the rash and negligent driving of motorcycle bearing registration No. HR-36W-3407 driven by respondent No.1. Finding of the learned Tribunal on this issue has attained finality.

In order to prove the income of the deceased, the claimants have examined PW2 Rajeev Kumar, Supervisor of M/s India Japan Lighting Company Limited, who specifically testified that the deceased was getting a salary of ₹5,813/- per month. Reference to document (Ex.P2) i.e. purportedly the wage summary for the month of March, 2015, is of no avail to the appellants. This is so for the reason that the said document does not indicate the deceased to be earning an income beyond ₹5,813/-. Learned counsel for the appellants is unable to deny that in respect to the figures mentioned in the various columns, there is no indication in regard thereto, to prove that the same may be in respect to some allowance etc., which the deceased may have been receiving. There is admittedly no total amount of income, which may be mentioned in the said document whereas PW2 has clearly deposed that the deceased was receiving a salary of ₹5,813/-, therefore, the learned Tribunal has rightly assessed income of the deceased as ₹5,813/- 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% (₹2325/-) is afforded, as the deceased was 20 years old at the time of accident, which takes income of the deceased to ₹8,138/- 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 ₹4069/-(8138-4069). Applying a multiplier of 18, dependancy of the claimants is assessed as ₹8,78,904/- (₹4069x12x18). The claimants are also entitled to ₹15,000/- each for funeral

expenses and loss of estate (instead of ₹20,000/-). 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, the appellants 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 ₹9,48,904/- detailed as under:-

Loss of dependency (₹4069x12x18)	₹8,78,904/-
Loss of filial consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹9,48,904/-

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.

July 04, 2019
rts

(Lisa Gill)
Judge

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