IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 1757 of 2018 (O&M)
Date of Decision: December 04, 2019

Seema and others

...... Appellants(s)

Versus

Hamir Singh Sran and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Mayank Mathur, Advocate
for the appellants.

None for respondents no.1 and 2.

Mr. Ankur Gupta, Advocate
for respondent no.3.

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LISA GILL, J.

This appeal has been filed seeking enhancement of the compensation awarded to the claimants vide award dated 13.07.2017, passed by learned Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'the Tribunal).

Claimants filed a petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation on account of death of Rehmat Ali, due to the injuries suffered by him in the motor vehicle accident, which took place on 18.11.2015. Deceased was claimed to be 32 years old and working as driver-cum-foreman with Competent Construction Company, Chandigarh besides running a milk dairy, thereby earning Rs.24,000/- per month.

Learned Tribunal on considering the evidence on record concluded that Rehmat Ali lost his life due to the injuries received by him in the accident in question, which took place on 18.11.2015, due to the rash and negligent driving of the offending car bearing registration No. PB-03-AH-9192, by its driver Jaswinder Singh @ Jassi-respondent no.2. Learned Tribunal while assessing the income of the deceased to be Rs.18,000/- per month by accepting him to be a driver-cum-foreman with Competent Construction Company, Chandigarh, awarded a sum of Rs.24,80,000/- as compensation to the claimants, which is detailed as under:-

Sr. No.	**Heads**	**Calculations**
1.	Income	18,000 x 12 = 2,16,000 per annum
2.	Income after deducting 1/3rd as personal living expenses of the deceased	1,44,000/-
3.	Dependency after applying multiplier of 16	1,44,000 x 16 = 23,04,000/-
4.	Loss of consortium to wife	1,00,000/-
5.	Loss of love and affection for family	25,000/-
6.	Loss of estate	25,000/-
4.	Funeral expenses	25,000/-
	Total	**Rs.24,79,000 (rounded off to Rs.24,80,000/-)**

Present appeal has been filed seeking enhancement of the aforesaid compensation.

Learned counsel for the appellants while not raising any objection qua the income as assessed by the learned Tribunal on the basis of the salary disbursement vouchers and statement of CW3, submits that increment towards future prospects has not been afforded by the learned Tribunal. Moreover, deduction of 1/3rd has been incorrectly effected. It is, however, fairly stated that compensation under the conventional heads be re-worked in terms of the judgment of Hon'ble Supreme Court **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.** It is thus prayed that compensation be enhanced.

Learned counsel for the insurance company, however, refutes the above said arguments while submitting that just and reasonable compensation has been awarded by the learned Tribunal, which calls for no enhancement. Excessive compensation has already been awarded under the conventional heads itself. Dismissal of this appeal is prayed for.

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

There is no dispute regarding death of Rehmat Ali aged 32 years in the motor vehicle accident, which took place on 18.11.2015, due to the rash and negligent driving of the offending car bearing registration No. PB-03-AH-9192, by its driver Jaswinder Singh @ Jassi-respondent no.2. It is a matter of record that the deceased was working as a driver-cum-foreman with Competent Construction Company, Chandigarh and salary of Rs.18,000/- per month being received by the deceased is duly proved by the salary disbursement vouchers Ex.P3/1 to Ex.P3/30. CW3 Jaswinder Singh, Accounts Officer, Competent Construction Company, Chandigarh has duly proved the certificate regarding payment of salary to the deceased i.e. Ex.P4 as well as the income-tax returns and the balance sheets of the above said firm Ex.P5 to Ex.P7. Income of the deceased has thus rightly been assessed as Rs.18,000/- per month.

Keeping in view the judgment of the Hon'ble supreme Court in ***National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680,*** 40% increment has to be afforded on account of future prospects. The claimants in this case are the widow, two minor children and the mother of the deceased, therefore, deduction of 1/4th instead of 1/3rd has to be applied. As the deceased was admittedly 32 years old at the time of the accident, multiplier of 16 was correctly applied by learned Tribunal. However, instead of Rs.25,000/- each awarded by the learned Tribunal towards funeral expenses and loss of estate, claimants are entitled to a sum of Rs.15,000/- each on both these counts. Appellant-widow is entitled to a sum of Rs.40,000/- on account of loss of spousal consortium instead of Rs.1 lakh awarded by the learned Tribunal towards loss of consortium. Additionally, appellants no.2 & 3-minor children of the deceased are entitled to a sum of Rs.40,000/- towards loss of parental consortium and appellant no.4-mother of the deceased is entitled to a sum of Rs.40,000/- on account of loss of filial consortium. The appellants-claimants are not entitled to

Rs.25,000/- awarded towards loss of love and affection. 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-2110-2016, title ***Shri Ram General Insurance Company Ltd. Vs. Beant Kaur and others***.

Appellants-claimants are, thus, entitled to compensation which is re-worked as under:-

Sr. No.	**Heads**	**Calculations**
1.	Income	18,000 x 12 = 2,16,000/- per annum
2.	Income after deducting 1/4th as personal living expenses of the deceased	2,16,000 - 54,000/- (2,16,000 x 1/4) = 1,62,000/-
3.	Total income after addition at the rate of 40% on account of future prospects	1,62,000 + 64,800 (1,62,000 x 40%) = 2,26,800/-
4.	Dependency after applying multiplier of 16	2,26,800 x 16 = 36,28,800/-
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/-
9.	Loss of filial consortium to appellant no.4	40,000/-
	Total	**37,78,800/-**

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 entire amount instead of 6%, 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.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

December 04, 2019.
Sunil

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