IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

FAO No. 2242 of 2018

Date of Decision: November 08 , 2019.

Dimple and others ...... APPELLANT (s)

Versus

Shubh Karan Bishnoi and another ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Gaurav Aggarwal, Advocate
for the appellants.

Mr. Vinod Gupta, Advocate
for respondent No.2 – Insurance company

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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, Sirsa (for short, the 'Tribunal') vide impugned award dated 15.09.2017 on account of death of Amir Chand in a motor vehicle accident.

Brief facts necessary for the adjudication of the case are that, the claimants filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Amir Chand, who lost his life in a motor vehicle accident which took place on 09.08.2015. The deceased-Amir Chand alongwith others were going from Sangria in Tavera vehicle bearing registration No.HR-55F-7100 to attend a family function. When their vehicle reached ahead of village Ghuman Kalan near petrol pump, a truck bearing registration No.RJ-

07GB-5789 which was coming from the opposite side, struck against their Tavera vehicle. As a result thereof, occupants of the Tavera vehicle received multiple injuries and they were removed to General Hospital, Bathinda. FIR No.126 dated 09.08.2015 under Sections 279/337/338/427/304A IPC, Police Station Maur was registered in respect to the incident. Deceased-Amir Chand is pleaded to be working as a Salesman in a readymade garments showroom, Fashion Camp, Sirsa, earning a sum of ₹15,000/- per month. Compensation was thus prayed for.

Learned Tribunal on considering the facts and evidence on record concluded that Amir Chand died on account of the injuries received by him in motor vehicle accident, in question, which took place due to the rash and negligent driving of Tavera vehicle No.HR-55F-7100 by respondent No.1-Shubh Karan Bishnoi. Learned Tribunal, while assessing income of the deceased as ₹5,000/- per month, awarded a total amount of ₹7,90,000/- to the claimants. Deduction to the extent of 1/3rd was effected. Multiplier of 14 was applied. ₹25,000/- was awarded on account of funeral expenses, besides, ₹5,000/- on account of transportation charges. ₹1,00,000/- to the claimant-widow towards loss of consortium, besides, ₹1,00,000/- towards loss of love and affection.

Learned counsel for the appellants argues that learned Tribunal has wrongly assessed income of the deceased while taking him to an unskilled labourer, whereas it is proved on record that he was working as a Salesman in a readymade garments showroom at the relevant time. It is argued that the deceased was 39 years old at the time of his death as per the Aadhar Card (Ex.P1), which has been proved on record, therefore, appropriate multiplier should be applied. It is further submitted that increment on account of future prospects should be afforded. It is, however, stated that compensation under the conventional heads be reworked in terms of the judgments of the Hon'ble Supreme Court in **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 the amount of compensation awarded to the appellants be enhanced accordingly.

Learned counsel for respondent No.2-Insurance company refutes the abovesaid averments, while submitting that excessive compensation has been awarded under the conventional heads. No ground is made out for any enhancement. Dismissal of the 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 Amir Chand in a motor vehicle accident which took place on 09.08.2015 due to the rash and negligent driving of the offending vehicle bearing registration No.HR-55FF-7100 by respondent No.1-Shubh Karan Bishnoi. There is no challenge to this finding of the learned Tribunal in this regard. The deceased is duly proved to be working as a Salesman in a readymade garments showroom, Fashion Camp, Sirsa, through the exact salary received by him is not so proved. PW3 Sachin Taneja testified that the deceased-Amir Chand was working as a Salesman in the said showroom at the time of the accident. PW3 Sachin Taneja produced his salary certificate as Ex.PW4/A, but the same is not authenticated. It is, however, to be noted that minimum wage available to a skilled labourer in the State of Haryana was ₹6,016/- per month at the relevant time. In this view of the matter, it is considered just and expedient to assess income of the deceased as ₹6,016/- per month, instead of ₹5,000/- per month.

Learned Tribunal has wrongly concluded the deceased to be 41 years old at the time of the accident with reference to the post-mortem report. Learned counsel for the Insurance company is unable to deny that as per the Aadhar Card of the deceased (also marked as Ex.P1), the deceased was 39 years old at the relevant time, his date of birth being 01.01.1976. Therefore, the deceased-Amir Chand is held to be 39 years old at the time of his death. Claimants are entitled to increment at the rate of 40% on account of future prospects in terms of the judgment of the Hon'ble Supreme in **Pranay Sethi (supra)**. It is a multiplier of 15, which has to be applied in this case as per the judgment of the Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another**, ***2009(3) RCR (Civil) 77.*** Deduction to the extent of 1/3rd has been rightly effected.

Instead of ₹25,000/- towards funeral expenses, ₹15,000/- is awarded, besides, another sum of ₹15,000/- towards loss of estate. Instead of ₹1,00,000/-, claimant-widow is held entitled to ₹40,000/- towards loss of consortium, whereas appellants No.2 and 3 (children of the deceased) are held entitled to ₹40,000/- on account of loss of parental consortium and not to ₹1,00,000/- on account of loss of love and affection, in terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Ltd. (supra)** 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).

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

Sr.No.	*Heads of Claim*	*Amount*
1.	Income	6,016 per month i.e., 72,192 per annum
2.	Total income after addition at the rate of 40% on account of future prospects	72,192 + (72,192 **x** 40%) = 1,01,069
3.	Deduction of 1/3rd on account of personal expenses	1,01,069 – (1,01,069 **x** 1/3) = 67,379
4.	Total dependancy after applying a multiplier of 15	(67,379 **x** 15) = 10,10,685
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
	Grand Total	₹11,20,685/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Appellants 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. Ratio of apportionment and manner of disbursement shall remain the same as determined by the learned Tribunal.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

November 08 , 2019.
'rajeev/om'

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No