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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 2657 of 2018 (O&M)
Date of Decision: July 16, 2019

Nisha Devi and others ..... Appellants(s)

Versus

Sachche Singh and others ..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Rohit Rana, Advocate
for the appellants.

Service upon respondents no.1 & 2 dispensed with vide order dated 06.02.2019.

Mr. Vinod Gupta Gupta, Advocate
for respondent no.3-insurance company.

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LISA GILL, J. (oral)

This appeal has been filed seeking enhancement of the compensation awarded to the claimants on account of death of Subham Singh vide award dated 17.10.2016, passed by learned Motor Accidents Claims Tribunal, Faridabad (hereinafter referred to as 'the Tribunal).

The appellants-claimants preferred a petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation on account of death of Subham Singh, due to injuries received by him in a motor vehicle accident, which took place on 06.11.2014. It is pleaded that the accident in question took place due to the rash and negligent driving of the offending bus bearing registration No. HR-38R-0356, by its driver Sachche Singh - respondent no.1. It is pleaded that the deceased Subham Singh was working as an Office

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Assistant with M/s. Pahwa International, New Delhi, earning a sum of Rs.9,000/- per month. Compensation was thus claimed.

Learned Tribunal on considering the evidence on record, facts and circumstances concluded that Subham Singh died on account of injuries received by him in the motor vehicle accident, which took place on 06.11.2014, due to the rash and negligent driving of the offending car bearing registration No. HR-38R-0356, by its driver Sachche Singh-respondent no.1. Learned Tribunal did not find the evidence produced by the claimants in respect of the income of the deceased to be credible and assessed income of the deceased to be Rs.8,000/- per month on the basis of the Deputy Collector (D.C.) rates prevalent in the district at that time and applied a multiplier of 15. Learned Tribunal awarded a sum of Rs.7,45,000/- as compensation to the appellants-claimants, the detail of which is as under:-

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	8,000/- per month
2.	Income after addition at the rate of 50% on account of future prospects	8,000 - 4,000 x 12= Rs.48,000/- per annum
3.	Income after applying multiplier of 15	48,000 x 15 = Rs.7,20,000/-
4.	Funeral expenses	25,000/-
	Grand Total	**Rs.7,45,000/-**

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

Learned counsel for the appellants does not press this appeal qua appellants no.2 to 4.

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Learned counsel for the appellants while not addressing any argument regarding the income of the deceased as assessed by the learned Tribunal, submits that multiplier of 15 has been wrongly applied. Increment on account of future prospects has not been awarded and meagre compensation under the conventional heads has been awarded. It is, thus, prayed that this appeal be allowed.

Learned counsel for respondent no.3-insurance company refutes the averments raised by learned counsel for the appellants and submits that the learned Tribunal has grossly erred in assessing the income of the deceased as Rs.8,000/- per month whereas the minimum wages prevalent in the State of Haryana at the time of the accident was a little less than Rs.6,000/- per month. It is submitted that income of the deceased be re-worked in accordance with the minimum wages as prevailed in the State of Haryana at the relevant time. He, however, is unable to deny that the claimants are entitled to increment on account of future prospects.

I have heard learned counsel for the parties and have gone through the record with their assistance.

There is no dispute regarding death of Subham Singh in the motor vehicle accident, which took place on 06.11.2014, due to the rash and negligent driving of the offending car bearing registration No. HR-38-R-0356, by its driver Sachche Singh-respondent no.1. In respect to the income of the deceased, it is to be noticed that the claimants relied upon testimony of PW-2 Pawan Kumar, H.R. Manager, Pahawa International, who proved that

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the deceased was working as an Office Assistant with the said firm. Ex.P-5 is the salary certificate. It is relevant to note that in the said salary certificate, it is mentioned that the deceased was working as an Office Assistant (Temporary) since 04.10.2014 till 05.11.2014. His monthly emolument is mentioned as Rs.9,542/-. It is a matter of record that no record except the said certificate Ex. P-5 in respect to the employment/salary of the deceased was produced, neither the attendance register, salary register or any other record or any other evidence is on record. The employment is admittedly for one month only. The accident in question took place on 06.11.2014. No appointment letter has been produced on record. There is no evidence on record to show the educational qualification of the deceased either. It is a settled position that compensation awarded to the claimants has to just and reasonable. It should not be meagre in the given circumstances, nor a bonanza. Keeping in view the facts and circumstances of the case, it is considered just and expedient to assess income of the deceased to be Rs.6,000/- per month. Addition on account of future prospects has to be afforded @ 40% in terms of the judgment of Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others,** ***2017(16) SCC 680***. There is merit in the argument raised by learned counsel for the appellants regarding the multiplier to be applied in this case. The matter regarding application of multiplier while assessing the compensation is no longer *res integra*. It has been held by the Hon'ble Supreme Court in ***Munna Lal Jain Vs. Vipin Kumar Sharma*****, (2015) 6 SCC 347** that the multiplier is to be applied as per the age of the deceased. Therefore,

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multiplier of 18 has to be applied as the deceased was admittedly 21 years old. Deduction of 50% was correctly effected by learned Tribunal. Instead of Rs.25,000/- awarded by learned Tribunal on account of funeral expenses, appellant no.1 is entitled to Rs.15,000/- each towards funeral expenses and loss of estate. Appellant no.1, however, is entitled to a sum of Rs.40,000/- on account of loss of filial consortium in terms of the judgment of 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 2018, titled Shri Ram General Insurance Co. Ltd. Vs. Beant Kaur and others.

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

Sr.No.	***Heads of Claim***	***Amount***
1.	Income # 6,000 x 12	72,000/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	72,000+28,800 (72,000 x 40%) = 1,00,800/-
3.	Income after 50% deduction on account of personal and living expenses of the deceased	1,00,800 – 50% =50,400/-
4.	Total dependency after applying a multiplier of 18	(50,400 **x** 18) = 9,07,200/-
5.	Funeral expenses	15,000/-
6.	Loss of estate	15,000/-
7.	Loss of filial consortium to appellant no.1	40,000/-
	Grand Total	**Rs.9,77,200/-**

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above.

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Claimants 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 as well as manner of disbursement amongst the claimants as determined by the learned Tribunal shall remain the same.

Appeal is accordingly disposed of.

July 16, 2019. **(LISA GILL)**
Sunil **JUDGE**

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