IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

FAO No. 562 of 2017(O&M)

Date of Decision: August 22 , 2019.

Smt. Hanso ...... APPELLANT

Versus

Tarugar and others ...... RESPONDENTS

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Gaurav Gupta, Advocate
for the appellant.

Mr. Lalit Garg, Advocate
for respondent No.3 – Insurance company

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LISA GILL, J.

This appeal has been filed by the claimant seeking enhancement of compensation awarded to her by the learned Motor Accident Claims Tribunal, Palwal (for short, the 'Tribunal') vide impugned award dated 06.09.2016 on account of death of Hari Singh in a motor vehicle accident.

Brief facts necessary for the adjudication of the case are that, the claimant filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of her husband, Hari Singh, who lost his life in a motor vehicle accident which took place on 07.11.2015. FIR No.598 dated 07.11.2015, under Sections 279/304A IPC, Police Station Hodal was registered against respondent No.1-driver. It is pleaded that deceased-Hari Singh, aged 70 years, was earning a sum of ₹20,000/- per month. Compensation to the tune of

₹20,00,000/- was claimed.

Learned Tribunal on considering the facts and evidence on record concluded that the accident in question took place due to the rash and negligent driving of the offending vehicle (Trala) bearing registration No. RJ-13GB-9057 by respondent No.1-Tarugar.

Learned Tribunal while assessing income of the deceased to be ₹5,000/- per month, awarded a total amount of ₹2,40,000/- to the claimant. Deduction to the extent of 1/3rd was effected. Multiplier of 5 was applied. ₹25,000/- was awarded on account of funeral expenses & last rites etc., besides, ₹5,000/- each on account of loss of estate, loss of consortium as well as loss of love and affection.

Learned counsel for the appellant argues that income of the deceased has been wrongly assessed as ₹5,000/- per month. Compensation under the conventional heads, it is submitted, is meagre. It is thus prayed that the amount of compensation awarded to the appellant be enhanced accordingly.

Learned counsel for respondent No.3-Insurance company submits that just and reasonable compensation has been awarded by the learned Tribunal which does not call for any enhancement. It is submitted that in fact 1/3rd deduction has been wrongly effected, whereas it is only the appellant, who was dependant upon the deceased. 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 Hari Singh in a motor vehicle accident which took place on 07.11.2015 due to the rash and negligent driving of the offending vehicle bearing registration No.RJ-13GB-9057 by respondent No.1-Tarugar. Finding of the learned Tribunal in this regard has attained finality.

There is further no dispute regarding age of the deceased to be 70 years. Appellant-claimant pleaded that the deceased-Hari Singh was earlier working as a Peon in Brij Public High School, Tali Mandi, Hodal, earning a sum of ₹20,000/- per month. Certificate (Mark 'E') was relied upon to claim that he was getting a salary of ₹9,100/- per month. However, apart from the bald statement of the appellant herself, no evidence has been led to prove employment of the deceased with the said school or earning of sum of ₹20,000/- per month by him. Learned Tribunal assessed income of the deceased to be ₹5,000/- per month on the basis of notional income of an unskilled labour. However, learned counsel for the Insurance company is unable to deny that the minimum wage of an unskilled labourer in the State of Haryana at the time of the accident i.e., 07.11.2015, was ₹7600/- per month. Income of the deceased is, accordingly, assessed as ₹7600/- per month.

As the deceased was admittedly 70 years old at the relevant time, no increment towards future prospects has to be afforded. Deduction of 50% is required to be effected keeping in view 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*. Multiplier of 5 is correctly applied. Instead of ₹25,000/- towards last rites & funeral expenses etc., the claimant is entitled to ₹15,000/- on account of funeral expenses. She is also entitled to another sum of ₹15,000/- instead of ₹5,000/- towards loss of estate. Instead of ₹5,000/- each on account of loss of consortium and loss of love and affection, the claimant is entitled to ₹40,000/- for loss of spousal consortium in terms of 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***.

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

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	7600 per month i.e., 91,200 per annum
2.	Deduction of 50% on account of personal expenses	91,200 – (91,200 **x** 1/2) = 45,600
3.	Total dependancy after applying a multiplier of 5	(45,600 **x** 5) = 2,28,000
4.	Loss of estate	15,000
5.	Funeral expenses	15,000
6.	Loss of spousal consortium	40,000
	Grand Total	₹2,98,000/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Claimant 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. Manner of disbursement shall remain the same as determined by the learned Tribunal.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

August 22 , 2019.
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No