IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 3007 of 2018 (O&M)
Date of Decision: July 25, 2019

Gurmeet Kaur and others

...... Appellants(s)

Versus

Harjinder Singh and another ..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Rahul Arora, Advocate for
Mr. Raman Goklaney, Advocate
for the appellants.

None respondent no.1, despite service.

Mr. Deepak Suri, Advocate
for respondent no.2-insurance company.

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LISA GILL, J. (oral)

This appeal has been filed seeking enhancement of compensation awarded to the claimants vide award dated 02.08.2017, passed by learned Motor Accidents Claims Tribunal, Ferozepur (hereinafter referred to as 'the Tribunal) on account of death of Kuldeep Singh.

The appellants-claimants preferred a petition under Section 166/140 of the Motor Vehicles Act, 1988 seeking compensation on account of death of Kuldeep Singh, due to injuries received by him in a motor vehicle accident, which took place on 02.12.2016. It is pleaded that the accident in question took place due to the rash and negligent driving of the offending Mahindra Marshal bearing registration No. HR-02F-5913, by its driver Harjinder Singh - respondent no.1. It is pleaded that the deceased Kuldeep

Singh was working as a mason, earning a sum of Rs.40,000/- per month. Compensation was thus claimed.

Learned Tribunal on considering the evidence on record, facts and circumstances concluded that Kuldeep Singh died on account of injuries received by him in the motor vehicle accident, which took place on 02.12.2016, due to the rash and negligent driving of the offending Mahindra Marshal bearing registration No. HR-02F-5913, by its driver Harjinder Singh-respondent no.1. Learned Tribunal while treating the deceased to be a casual labourer, assessed his income to be Rs.6,000/- per month and awarded a sum of Rs.6,57,000/- as compensation to the appellants-claimants, the detail of which is as under:-

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	6,000 x 12 = 72,000/- per annum
2.	Income after deduction at the rate of 50% on account of personal expenses	72,000 - 50% = Rs.36,000/-
3.	Income after applying multiplier of 12	36,000 x 12 = Rs.4,32,000/-
4.	Funeral expenses	25,000/-
5.	Loss of consortium	1,00,000/-
6.	Loss of estate	1,00,000/-
	Grand Total	**Rs.6,57,000/-**

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

Learned counsel for the appellants argues that the learned Tribunal has erred while treating the deceased to be a casual labourer whereas he was working as a mason and he had his own labour and had got contracts for construction. Deceased was earning Rs.40,000/- per month. Learned counsel submits that multiplier of 12 has been wrongly applied. Increment on account of future prospects has not been awarded. He, however, fairly states that compensation under the conventional heads be re-worked. It is, thus, prayed that this appeal be allowed.

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

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

There is no dispute regarding death of Kuldeep Singh in the motor vehicle accident, which took place on 02.12.2016, due to the rash and negligent driving of the offending Mahindra Marshal bearing registration No. HR-02F-5913, by its driver Harjinder Singh-respondent no.1. In respect to the income of the deceased, the claimants pleaded the deceased Kuldeep Singh to be a mason, earning a sum of Rs.40,000/- per month. Learned counsel for the appellants is unable to point out any categoric evidence on record to substantiate such a claim of the deceased either being a mason or earning Rs.40,000/- per month. Learned Tribunal has rightly observed that income of the deceased in such a circumstance has to be calculated with reference to the minimum wage of a casual labourer. However, it is not denied by learned counsel for the insurance company that the minimum wage available to a casual labourer in the State of Punjab at the time of the accident was Rs.7,210/- per month. Accordingly, income of the deceased is assessed as Rs.7,210/- per month instead of Rs.6,000/-. 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 deceased being 21 years old at the time of the accident. Deduction of 50% was correctly effected by learned Tribunal. However, learned Tribunal has erred in applying a multiplier of 12 with reference to the age of the parents. 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, multiplier of 18 has to be applied as the deceased was admittedly 21 years old. However, instead of Rs.25,000/- awarded by learned Tribunal on account of funeral expenses and Rs.1,00,000/- awarded towards loss of estate, appellants are entitled to Rs.15,000/- each under both these heads. Furthermore, appellants no.1 and 2 are entitled to a sum of Rs.40,000/- instead of Rs.1,00,000/- 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 # 7,210 x 12	86,520/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	86,520+34,608 (86,520 x 40%) = 1,21,128/-
3.	Income after 50% deduction on account of personal and living expenses of the deceased	1,21,128 – 50% =60,564/-
4.	Total dependency after applying a multiplier of 18	(60,564 **x** 18) = 10,90,152/-
5.	Funeral expenses	15,000/-
6.	Loss of estate	15,000/-
7.	Loss of filial consortium to appellants no.1 and 2	40,000/-
	Grand Total	**Rs.11,60,152/-**

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 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 25, 2019. **(LISA GILL)**
Sunil **JUDGE**

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