IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

FAO No. 5672 of 2017

Date of Decision: October 22 , 2019.

Renu Sharma and others ...... APPELLANT (s)

Versus

Sukhbir Singh and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Anil Kumar Spehia, Advocate
for the appellants.

Mr. V. Ramsawroop, Advocate
for respondent No.3 – 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, Jalandhar (for short, the 'Tribunal') vide impugned award dated 30.11.2016 on account of death of Pardeep Sharma 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 Pardeep Sharma, who lost his life in a motor vehicle accident which took place on 31.03.2015. FIR No.49 dated 09.04.2015 under Sections 338/427/304A IPC, Police Station Maqsudan was registered against respondent No.1-driver in respect to the incident. Deceased-Pardeep

Sharma, aged 35 years, was claimed to be doing business in the name and style of M/s Unilink Services, earning a sum of ₹30,000/- per month. Compensation was thus prayed for.

Learned Tribunal on considering the facts and evidence on record concluded that Pardeep Sharma 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 truck bearing registration No.PB-06-Q-4837 by respondent No.1-Sukhbir Singh. Learned Tribunal held the deceased to be an income tax assessee and while assessing his income as ₹3,66,000/- per annum, awarded a total amount of ₹37,85,000/- to the claimants. Deduction to the extent of 1/3rd was effected. Multiplier of 15 was applied. ₹25,000/- was awarded on account of funeral expenses, besides, ₹1,00,000/- to the claimant-widow towards loss of consortium.

Learned counsel for the appellants does not raise any dispute regarding the income of the deceased as assessed by the learned Tribunal. It is argued that deduction of 1/4th instead of 1/3rd be applied in this case as the aged father of the deceased was totally dependant upon the deceased. It is further submitted that increment on account of future prospects should be afforded. Compensation under the conventional heads, it is fairly stated, 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.3 refutes the abovesaid averments and submits that just and reasonable compensation has been awarded by the learned Tribunal which does not call 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 Pardeep Sharma in a motor vehicle accident which took place on 31.03.2015 due to the rash and negligent driving of the offending vehicle bearing registration No.PB-06-Q-4837 by respondent No.1-Sukhbir Singh. Finding of the learned Tribunal in this regard has attained finality. Income of the deceased is accepted to be ₹3,66,000/- per annum. The deceased was admittedly 35 years old at the time of the accident. 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).

Claimants are the widow, minor children and aged parents of the deceased. It is specifically claimed that the father of the deceased, aged 66 years, was totally dependant upon the deceased. Keeping in view the evidence on record and the admitted age of the father of the deceased, it is a deduction of 1/4th which has to be effected, instead of 1/3rd in terms of 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 16 has to be applied as the deceased was, admittedly, 35 years old at the time of his death. 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 appellant No.2 is entitled to ₹40,000/- on account of loss of parental consortium and appellants No.3 and 4 are held entitled to ₹40,000/- on account of loss of filial consortium 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	3,66,000 per annum
2.	Total income after addition at the rate of 40% on account of future prospects	3,66,000 + (3,66,000 **x** 40%) = 5,12,400
3.	Deduction of 1/4th on account of personal expenses	5,12,400 – (5,12,400 **x** 1/4) = 3,84,300
4.	Total dependancy after applying a multiplier of 16	(3,84,300 **x** 16) = 61,48,800
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 appellant No.2	40,000
9.	Loss of filial consortium to appellants No.3 and 4	40,000
	Grand Total	₹62,98,800/-

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

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