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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 3619 of 2018 (O&M)
Date of Decision: July 09, 2019

Balwinder Kaur and others

...... Appellants(s)

Versus

Pankaj Kumar and another ..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Siddharth Gupta, Advocate
for the appellants.

Service upon respondent no.1 dispensed with
vide order dated 02.07.2018.

Mr. Vinod Gupta, Advocate
for respondent no.2.

****

LISA GILL, J. (oral)

This appeal has been filed seeking enhancement of the compensation awarded to the appellants-claimants on account of death of Darshan Singh vide award dated 19.03.2018, passed by learned Motor Accidents Claims Tribunal, Bathinda (hereinafter referred to as 'the Tribunal).

The claimants-appellants filed a petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation on account of death of Darshan Singh i.e. husband and father of the appellants, due to injuries received by him in a motor vehicle accident, which took place on 25.09.2016, due to the rash and negligent driving of the car bearing registration No. PB-

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10FC-2970, by its driver Pankaj Kumar - respondent no.1. Darshan Singh, aged 55 years was pleaded to be working as a Halka Patwari since 1988 and was posted at Nihal Singh Wala, drawing a salary of Rs. 45,000/- per month.

Learned Tribunal on considering the evidence on record and the facts and circumstances of the case concluded that Darshan Singh died due to the injuries received by him in the motor vehicle accident, which took place on 25.09.2016, due to the rash and negligent driving of the car bearing registration No. PB-10FC-2970, by its driver Pankaj Kumar-respondent no.1. Learned Tribunal assessed income of the deceased to be Rs.51,016/- per month and afforded an increment of 15% on account of future prospect. Deduction of 1/3rd was applied and a split multiplier was applied while observing that Darshan Singh would have retired at the age of 58 years, therefore, justifying the application of a split multiplier in such a situation. Total compensation of Rs.28,71,064/- was awarded, which is detailed as here under:-

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	51,016/- per month
2.	Income after an addition of 15% on account of future prospects	51016+7652 = Rs.58,668/-
3	Income after deduction of 1/3rd on account of personal and living expenses of the deceased	58,668 – 19,556 x 12 = Rs.4,69,344/- per annum
4.	Income after applying split multiplier of 3 and 6	4,69,344 x 3= 14,08,032+ 234672 x 6 -14,08,032 = 28,16,064/-
5	Funeral expenses	Rs.15,000/-
6	Loss of consortium to claimant no.1	40,000/-
	Grand Total	**Rs.28,71,064/-**

Present appeal has been filed seeking enhancement of the

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aforesaid compensation.

Learned counsel for the appellants submits that multiplier of 9 has been wrongly applied by learned Tribunal whereas it is a multiplier of 11 which should have been applied as the deceased was admittedly 55 years 7 months old at the time of the accident. Moreover, there was no occasion for the learned Tribunal to apply a split multiplier in this case. It is further contended that compensation under the conventional heads should also be enhanced. It is, thus, prayed that the present appeal be allowed.

Learned counsel for the respondent-insurance company while not denying that no cross appeal or cross-objections have been filed by the insurance company, submits that income of the deceased has been wrongly assessed as Rs.51,016/- per month. Component of tax should have been calculated at a higher rate. Learned counsel submits that the impugned award dated 19.03.2018 does not call for any enhancement of the compensation, as the same is reasonable and just in the facts and circumstances of the case. Dismissal of the appeal is prayed for.

I have heard learned counsel for the appellants and respondent no.2 and have gone through the record.

There is no dispute regarding death of Darshan Singh, due to the injuries received by him in the motor vehicle accident, which took place on 25.09.2016, due to the rash and negligent driving of the car bearing registration No. PB-10FC-2970, by its driver Pankaj Kumar-respondent no.1. It is further not in dispute that Darshan Singh was employed as Halka

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Patwari and as per the salary certificate Ex. CW3/A, duly proved by Paramjit Kaur CW-3, Darshan Singh was drawing a gross salary of Rs.53,016/- per month. As per the said salary certificate, amount of Rs.2,000/- was being deducted as tax liability. I do not find any merit in the argument raised by learned counsel for the insurance company that the deceased was liable to pay more income-tax. There is indeed no evidence on record to indicate that the deceased was liable to pay more than what was already being deducted from his salary towards the component of income-tax. Therefore, income of the deceased as assessed by the learned Tribunal @ Rs.51,016/- per month is upheld. An addition of 15% on account of future prospects has been correctly afforded.

Learned Tribunal has observed that as the deceased was in the age group of 56 to 60 years, therefore, a multiplier of 9 for 3 years and 6 for the remaining has been applied. Admittedly, age of the deceased was 55 years and 7 months at the time of the accident/death. Therefore, his age has to be considered as 55 years and not 56. Useful reference can be made in this regard to the judgment of the Hon'ble Supreme Court in ***Shashikala and others Vs. Bangalakshmamma and another 2015(9) SCC 150***. Therefore, in the given factual matrix, it is a multiplier of 11 which has to be applied in this case. Practice of applying a split multiplier has been deprecated by the Hon'ble Supreme Court in **Puttamma and others v. K.L.Narayana Reddy and another, *(2013) 15 SCC 45,*** wherein it has been held that in normal circumstances a split multiplier should not be applied. There is no justification for applying a split multiplier in the present case.

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Deduction of $1/3^{rd}$ was correctly applied by learned Tribunal. Amount of Rs.15,000/- awarded towards funeral expenses as well Rs.40,000/- awarded towards loss of consortium is maintained. The claimants are further entitled to another sum of Rs.15,000/- towards loss of estate and appellants no.2 & 3 are entitled to a sum of Rs.40,000/- towards loss of parental consortium in terms of judgment of Hon'ble Supreme Court in ***Magma General Insurance Co. Ltd. Vs. Nanu Ram @ Chuhru Ram and others., 2018(4) RCR(Civil) 333***, as well as decision dated 14.03.2019 of this Court in FAO No. 2110 of 2016 (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	51,016/- per month
2.	Income after an addition of 15% on account of future prospects	51016+7652 = Rs.58,668/-
3	Income after deduction of $1/3^{rd}$ on account of personal and living expenses of the deceased	58,668 – 19,556 x 12 = Rs.4,69,344/- per annum
4.	Income after applying multiplier of 11	4,69,344 x 11 = 51,62,784/-
5.	Funeral expenses	Rs.15,000/-
6.	Loss of estate	Rs.15,000/-
7.	Loss of consortium to appellant no.1	40,000/-
8	Loss of parental consortium to appellants no.2 and 3	40,000/-
	Grand Total	**Rs.52,72,784/-**

Needless to say, the amount already awarded by the learned

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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 09, 2019.
Sunil

(LISA GILL)
JUDGE

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