IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

FAO No. 6459 of 2017(O&M)

Date of Decision: July 09 , 2019.

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

Versus

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

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Ms. Bhavna Grewal, Advocate for
Mr. Pulkit Dagar, Advocate
for the appellants.

Mr. Vinod Gupta, Advocate
for respondent No.3 – Insurance company

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1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

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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, Karnal (for short, the 'Tribunal') vide impugned award dated 08.02.2017 on account of death of Sukhjeet Singh 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 Sukhjeet Singh, who lost his life in a motor vehicle accident which took place on 11.06.2015. FIR No.320 dated 15.06.2015 under Sections 427/279/304A IPC, Police Station Passgaon, District Khiri (UP) was registered against respondent No.1-driver. The deceased was claimed to be employed as a driver with one Rajesh son of Ranbir Singh, earning a sum of ₹12,000/- per month, besides, ₹300/- per day when he went out of town in connection with his vocation. Compensation was thus prayed for.

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 truck bearing registration No.UP20T-5481, by respondent No.1-Harinder Singh and Sukhjeet Singh died due to the injuries suffered by him in the said accident. This finding of the learned Tribunal has attained finality.

Learned Tribunal while assessing income of the deceased to be ₹9,560/- per month, awarded a total compensation of ₹15,97,320/- to claimants, which is detailed as hereunder:-

Income	9,560 p.m.
deduction	1/3rd
Multiplier	15
Loss of dependency	11,47,320 (6374 x 12 x 15)
Transportation & funeral expenses	50,000
Loss of consortium for widow	1,00,000
Loss of love and affection	3,00,000
Total =	15,97,320

Aggrieved from the quantum of compensation, present appeal has been filed by the claimants, who are the widow and minor children of the deceased.

Learned counsel for the appellants argues that the deceased was earning income, much higher than as assessed by the learned Tribunal. It is further submitted that increment on account of future prospects should be afforded. It is however submitted that the appellants have no objection in case compensation under the conventional heads is 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-Insurance company 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. It is submitted that excessive compensation has been awarded under the conventional heads. 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 Sukhjeet Singh in a motor vehicle accident which took place on 11.06.2015 due to the rash and negligent driving of the offending truck bearing registration No.UP20T-5481 by respondent No.1-Harinder Singh. Neither is there a dispute regarding liability of the Insurance company.

Learned Tribunal has assessed income of the deceased as ₹9,560/- per month while observing that the claimants failed to prove on record that the deceased was working as a driver with PW2 Rajesh, earning a monthly salary of ₹12,000/- per month. PW2 Rajesh has testified that he is owner of one Eicher

Canter No.HR-45B-3279 and had employed Sukhjeet Singh (deceased) as driver on the same. It is a matter of record that apart from the oral deposition of PW2 Rajesh, there is no other evidence on record in respect to the salary being received by the deceased. It is relevant to note, at this stage, that even the minimum wage of a highly skilled worker in the State of Haryana at the time of the accident was ₹6,536/- per month. Therefore, I do not find any ground, whatsoever, to interfere in the assessment of income of the deceased by the learned Tribunal to be ₹9,560/- per month.

Deceased-Sukhjeet Singh was admittedly 39 years old at the time of the accident. Keeping in view the judgment of the Hon'ble Supreme Court in **Pranay Sethi** (supra), addition in income at the rate of 40% on account of future prospects is required to be afforded. Multiplier of 15 has been rightly applied. Deduction to the extent of 1/3rd has been correctly effected as well. Instead of a sum of ₹50,000/- on account of funeral expenses, the claimants are held entitled to ₹15,000/- each towards funeral expenses and loss of estate, respectively. Instead of ₹1,00,000/- on account of loss of consortium to widow/appellant No.1 and ₹1,00,000/- each to the appellants for loss of love and affection, a sum of ₹40,000/- is awarded to appellant No.1 on account of loss of spousal consortium and appellants No.2 and 3 (minor children) are held entitled to a sum of ₹40,000/- on account of loss of parental 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-claimants are, thus, entitled to compensation which is reworked as under:-

Sr.No.	*Heads of Claim*	*Amount*
1.	Income	9560 p.m. i.e. ₹1,14,720/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	1,14,720 + (1,14,720 **x** 40%) = 1,60,608
3.	Income after deduction of 1/3rd on account of personal expenses	1,60,608 – (1,60,608 **x** 1/3) = 1,07,072
4.	Total dependancy after applying a multiplier of 15	(1,07,072 **x** 15) = 16,06,080
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 appellants No.2 and 3	40,000
	Grand Total	₹17,16,080/-

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

July 09 , 2019.
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No