

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No. 7000 of 2017 (O&M)

Date of decision : January 18, 2019

Beby and another

.....Appellants

Versus

Amarjit Singh and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Dinesh Mahajan, Advocate
for the appellants.

Mr. Vinod Gupta, Advocate
for respondent No. 3.

LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal, Gurdaspur (hereinafter referred to as the 'Tribunal') on account of death of Vicky Gill vide award dated 27.04.2017.

Brief facts necessary for adjudication of the case are that the claimants i.e. widow and son of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Vicky Gill on 06.11.2015 in a motor vehicle accident caused due to driving of the offending vehicle Tralla bearing registration No. PB-05-N-9925 by respondent No. 2 in a rash and negligent manner. It was averred that Vicky Gill was going on his motorcycle bearing registration No. PB-18-N-6376 from Mokhe to Gurdaspur. His brother Nishan Gill alongwith his maternal uncle on his motorcycle was following the deceased at some distance. When Vicky Gill reached Bariar Bypass and tried to cross the road on left side,

offending vehicle bearing registration No. PB-05-N-9925 came and struck against the motorcycle of the deceased. As a result thereof, he fell down on the road and his head was crushed. The deceased, aged 23 years at the time of the accident was stated to be earning a sum of ₹25,000/- per month while doing the work of mason and part time work of milk vendor.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place on 06.11.2015 due to rash and negligent driving of the offending Tralla bearing registration No. PB-05-N-9925 by respondent No. 2. Learned Tribunal awarded a sum of ₹7,23,000/- with interest at the rate of 7.5% per annum from the date of filing of the claim petition till date of actual realisation of the award. Income of the deceased was assessed as ₹4,500/- per month. Deduction of 1/3rd was effected, keeping in view the number of dependants. Multiplier of 18 was applied as the deceased was 23 years old at that time. Additionally, a sum of ₹50,000/- was awarded on account of loss of love and affection besides a sum of ₹25,000/- on account of funeral expenses and transportation.

Aggrieved of the quantum of compensation, claimants have filed this appeal.

Learned counsel for the appellants submits that income of the deceased has been wrongly assessed as ₹4,500/- per month. It is further submitted that in terms of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others** **2017 (4) RCR (Civil) 1009**, increment on account of future prospects at the rate of 40% should be afforded. It is submitted that though multiplier of 18 has been correctly applied, compensation under the conventional heads is

meagre. It is, thus, prayed that compensation awarded to the claimants be reworked accordingly.

Learned counsel for the respondent - insurance company while refuting the arguments raised by learned counsel for the appellants submits that adequate compensation has been awarded by the learned Tribunal which calls for no further enhancement. It is submitted that the compensation has been rightly assessed, thus, impugned award dated 27.04.2017 be upheld.

I have heard learned counsel for the parties and have gone through the available file.

There is no dispute that Vicky Gill lost his life in a motor vehicle accident, which took place on 06.11.2015 caused due to the rash and negligent driving of Tralla bearing registration No. PB-18-N-6376 driven by respondent No.2. Finding of the learned Tribunal on this issue has attained finality. It is also not disputed that the deceased was 23 years old at the time of the accident.

Learned counsel for the appellant is unable to deny that there is no evidence on record to indicate the income being actually earned by the deceased or the exact nature of his work. However, it is to be noticed that even the minimum wage of a unskilled labourer in the year 2015 in State of Punjab was ₹6,935/- per month. Income of the deceased is, thus, assessed as ₹6935/- per month instead of ₹4,500/-. In view of the guidelines of the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), increase on account of future prospects at the rate of 40% (₹2774/-) has to be afforded, as the deceased was 23 years old at the time of accident, which takes income of the deceased to ₹9709/- per month. In view of the guidelines laid down

by the Hon'ble Supreme Court in case of **Smt. Sarla Verma and others** **Versus Delhi Transport Corporation and another** 2009 (3) RCR (Civil) 77, deduction of 1/3rd is to be applied as number of dependants is two (2), thereby rendering income of the deceased to be ₹6473/-(9709-3236). Applying a multiplier of 18, dependancy of the claimants is, therefore, assessed as ₹13,98,168/- (₹6473x12x18). The claimants are also entitled to ₹15,000/- each for funeral expenses and loss of estate besides the claimant widow is entitled to ₹40,000/- on account of loss of consortium. In terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Limited versus Nanu Ram Alias Chuhru Ram and others** 2018 (4) RCR (Civil) 333, appellant No. 2 i.e. son of the deceased is entitled to ₹40,000/- on account of loss of parental consortium. Claimants are, thus, entitled to total compensation of ₹2,91,920/- detailed as under:-

Loss of dependency (₹6473x12x18)	₹13,98,168/-
Loss of consortium	₹40,000/-
Loss of parental consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹15,08,168/-

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above. Appellants shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants shall enure.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

January 18, 2019
rts

(Lisa Gill)
Judge

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