IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O. No. 7560 of 2017 (O&M)
Date of Decision: 05.12.2019

Hariom and another

......Appellants.

Versus

Pardeep and others

...... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.A.K.Yadav, Advocate
for the appellants.

Service upon respondents no.1 and 2, dispensed with vide order dated 16.08.2018.

Mr. V.Ramswaroop, Advocate
for respondent no.3-Insurance company.

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LISA GILL, J.

Appellants-claimants, seek enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Rewari (for short 'tribunal'), vide impugned award dated 30.03.2016, on account of death of Akash.

Appellants-claimants, are the parents of the deceased.

As per averments in the claim petition filed under Section 166 of the Motor Vehicles Act (for short 'M.V.Act'), Akash (deceased) along with his friend Jai Bhagwan, on 29.12.2014, were going from his native village Bawwa to Kanina, on a motorcycle bearing registration no. HR-99-TW(7) 5738. Motorcycle was being driven by Akash. Suddenly, a motorcycle bearing registration no. HR-36-W-3273 being driven by respondent no.1-Pardeep, in a rash and negligent manner struck against the motorcycle of Akash. As a result thereof, Akash received fatal injuries and died at the spot. Deceased was shifted to Government Hospital, Kanina by one Ram Chander, Namberdar of village Bawwa from where he was referred to Government Hospital, Mahendergarh. Postmortem was conducted on 30.12.2014. FIR No. 144 dated 11.04.2015, was registered against respondent no.1-Pardeep, in this respect. Compensation was thus claimed.

Learned Tribunal concluded that the accident in question was caused due to rash and negligent driving of the offending vehicle by respondent no.1-Pardeep. Said finding of the learned tribunal has attained finality.

Learned tribunal while considering the deceased to be serving with M/s Shiv Shakti Enterprises, assessed his income as ₹6000/- per month and awarded a sum of ₹3,44,000/-, which is detailed as under:-

1.	Total income of deceased	₹6000/- p.m.
2.	Deduction	50%
3.	Multiplier	9
4.	Loss of dependency	₹3,24,000/-
5.	Transportation, last rites etc.,	₹20,000/-
	Total	**₹3,44,000/-**

Aggrieved therefrom, the present appeal has been filed by the appellants-claimants.

Learned counsel for the appellants vehemently argues that income of the deceased has been wrongly assessed as ₹6000/- per month, whereas he was entitled to much more. Furthermore, multiplier of 9 has been wrongly applied by the learned tribunal. However, it is fairly stated that compensation under the conventional heads be reworked in terms of the judgement of the Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and Ors. 2017(4) R.C.R.(Civil) 1009** and **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors. 2018(4) RCR Civil 333.** It is thus prayed that this appeal be allowed and the compensation awarded to the appellants be enhanced.

Learned counsel for the 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 perused the file and heard learned counsel for the parties and have gone through the record with their assistance.

There is no dispute regarding death of Akash aged 22 years, in a motor vehicle accident which took place on 29.12.2014, due to the rash and negligent driving of the offending motorcycle bearing registration No.HR-36-W-3273, by respondent No.1-Pardeep.

It is specifically pleaded by the claimants that the deceased was working as an electrician with M/s Shiv Shakti Enterprises, Faridabad. PW-1-Satya Prakash, has specifically deposed in this respect and has stated that the deceased had joined their company on 21.08.2014 and continued to work for them till the accident. His salary slip, Ex.P-1, shows receipt of ₹6500/- per month by the deceased. Identity Card-Ex.P-2, and attendance record as Ex.P-3, were duly proved by this witness. Therefore, it is proved on record that the deceased was in receipt of a monthly salary of ₹6500/-. However, I do not find any merit in the argument raised by learned counsel for the appellant regarding additional income being earned by the deceased by doing part time work as an electrician. There is no documentary evidence on record neither is there sufficient oral evidence on record which comes to the aid of the claimants in this respect. Income of the deceased is thus assessed as ₹6500/- per month instead of ₹6000/-.

As the deceased was admittedly about 22 years old at the time of accident, increase in income at the rate of 40% on account of future prospects has to be afforded keeping in view the observations of the Hon'ble Supreme Court in **Pranay Sethi's** case **(Supra)**. Deduction of 50% is correctly applied by the learned tribunal.

The matter regarding application of multiplier while assessing the compensation is no longer res integra. The Hon'ble Supreme Court in **Munna Lal Jain v. Vipin Kumar Sharma, (2015) 6 SCC 347** has specifically held that multiplier is to be applied with reference to the age of the deceased. The deceased in this case was admittedly 22 years old at the time of the accident. Therefore multiplier of 18, instead of 9, is required to be applied in this case.

Instead of ₹20,000/- awarded towards transportation, last rites ceremonies etc., appellants-claimants are entitled to a sum of ₹15,000/- each for funeral expenses and loss of estate. Appellants are entitled to a sum of ₹40,000/- towards loss of parental consortium in terms of the judgement of Hon'ble Supreme Court in **Magma General Insurance Company Ltd.'s** case **(Supra)** 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 reworked as under:-

Sr. No.	Heads of Claim	Amount
1.	Income	₹6500/- p.m.
2.	Loss of income after addition at the rate of 40% on account of future prospects	₹6500 + (6500 x 40%) = ₹9100/-
3.	Deduction of 50% on account of personal expenses	₹9100 – (9100 x 50%) = ₹4550/-
4.	Loss of dependency after applying a multiplier of 18	(₹4550 x12 x 18) = ₹ 9,82,800/-
5.	Filial consortium	₹40,000/-
6.	Loss of estate	₹15,000/-
7.	Funeral expenses	₹15,000/-
	Total	**₹10,52,800/-**

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 of compensation at the rate of 7.5% per annum from the date of filing of the petition till realization. Manner of disbursement as determined by the learned Tribunal shall remain the same.

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

[LISA GILL]
Judge

05.12.2019

s.khan Whether speaking/reasoned : Yes/No.
Whether reportable : Yes/No.