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

FAO No. 7603 of 2017 (O&M)
Date of decision : March 18, 2019

Asha Rani and another .....Appellants

Versus

Rajesh Kumar and others ....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Umesh Kumar Kanwar, Advocate
for the appellants.

Mr. Aseem Aggarwal, Advocate
for respondent No. 3.

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LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Hoshiarpur (hereinafter referred to as the 'Tribunal') on account of death of Puneet Dhiman vide award dated 28.02.2017.

Brief facts necessary for 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 Puneet Dhiman on 26.09.2015 in a motor vehicle accident caused due to rash and negligent driving of the offending vehicle Indica car bearing registration No. PB07-R-4017 by respondent No.1. Claimants are the parents of the deceased.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place on 26.09.2015 due to rash and negligent driving of the offending Indica car bearing registration No. PB07-R-4017 by respondent No. 1. Learned Tribunal awarded a sum of ₹14,06,000/- with interest at the rate of 6% 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 ₹12,000/- per month. 50% deduction was effected as the deceased was a Bachelor. Multiplier of 18 was applied as the deceased was 25 years old at that time. Additionally, a sum of ₹1,00,000/- on account of loss of love and affection was awarded besides a sum of ₹10,000/- on account of funeral expenses.

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

Learned counsel for the appellants submits that learned Tribunal has erred in ignoring the income tax return duly proved on record by the claimants. The income tax returns of the deceased for the year 2015-16 (Ex.P11) indicates that the deceased was earning a sum of ₹2,70,000/- per annum. His income should, therefore, be treated as such. Furthermore, increment on account of future prospects should be afforded. It is, thus, prayed that compensation awarded to the claimants be reworked accordingly.

Learned counsel for the respondent - insurance company per contra submits that the income tax returns have not been proved in accordance with law, therefore, learned Tribunal has rightly ignored the same. Moreover, excessive amount of compensation has been awarded under the conventional heads, therefore, this appeal be dismissed.

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

There is no dispute that Puneet Dhiman lost his life in a motor vehicle accident, which took place on 26.09.2015 caused due to the rash and negligent driving of Indica car bearing registration No. PB07-R-4017 driven by respondent No.1. Finding of the learned Tribunal on this issue has attained finality. It is a matter of record that the deceased was 25 years old at the time of the accident. This is so reflected in the school certificate (Ex.P3) wherein his date of birth is mentioned as 07.12.1989. Exs. P10 and P11 are the income tax returns for the years 2014-15 and 2015-16 respectively. It is not in dispute that both these returns were filed prior to the accident in question in which Puneet Dhiman lost his life. Argument of learned counsel for the insurance company that as there is no evidence to show that the deceased was an agent of Life Insurance Corporation or that he was working as an Accountant, therefore, the said income tax returns should be discarded, is incorrect. There is no evidence on record to indicate that the said income tax returns are false or incorrect in any manner. In the peculiar facts and circumstances, it is considered appropriate to assess income of the deceased on an average of both the income tax returns (Exs. P10 and P11). Income of the deceased is, thus, assessed as ₹2,38,000/- per annum. In view of the guidelines of the Hon'ble Supreme Court in the case of **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, increase on account of future prospects at the rate of 40% (₹95,200/-) is afforded, as the deceased was 25 years old at the time of accident, which takes income of the deceased to ₹3,33,200/- per annum. 50% deduction is to be applied as the deceased was a Bachelor, thereby rendering income of the deceased to be ₹1,66,600/-(333200-166600). Applying a multiplier of 18, dependancy of the claimants is assessed as ₹29,98,800/- (₹166600 x18). The claimants are also entitled to ₹15,000/- each for funeral expenses (instead of ₹10,000/-) and loss of estate. Instead of ₹1,00,000/- awarded on account of loss of love and affection, appellants i.e. parents of the deceased are entitled to a sum of ₹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 Limited versus Nanu Ram Alias Chuhru Ram and other 2018 (4) RCR (Civil) 333.** Reference in this respect can also be made to decision dated 14.03.2019 of this Court in FAO No. 2110 of 2016 and other connected matters.

Claimants are, thus, entitled to total compensation of ₹30,68,800/- detailed as under:-

Loss of dependency (₹166600 x18)	₹29,98,800/-
Loss of filial consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹30,68,800/-

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 instead of 6% per annum on the entire awarded 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.

(Lisa Gill)
Judge

March 18, 2019
rts

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