IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 7643 of 2017 (O&M)
Date of decision : October 30, 2019

Paro Devi @ Parwati and others .....Appellants

Versus

Kishan Lal and others ....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

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

Service upon respondents No. 1 and 2 dispensed with vide order dated 26.07.2018.

Mr. Lalit Garg, 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, Ambala (hereinafter referred to as the 'Tribunal') on account of death of Sumran Kumar vide award dated 03.02.2017.

Brief facts necessary for adjudication of the case are that the appellants/claimants i.e. mother and three minor siblings of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Sumran Kumar on 29/30.10.2015, in a motor vehicle accident, caused due to rash and negligent driving of the offending vehicle, i.e. Bus bearing registration No. HR-74-A-8802, by respondent No.1.

Learned Tribunal on considering the evidence on record, facts and circumstances concluded that Sumran Kumar died in the accident which took place on 29/30.10.2015 due to rash and negligent driving of the offending Bus bearing registration No. HR-74-A-8802 by respondent No. 1. Learned Tribunal while assessing the income of the deceased to be ₹7500/-

per month awarded a sum of ₹9,65,000/- 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. Deduction of 1/3rd was effected, keeping in view the number of dependants. Multiplier of 14 was applied as per the age of the deceased at that time. Additionally, a sum of ₹1,00,000/- on account of loss of love was awarded and affection besides a sum of ₹25,000/- on account of funeral expenses.

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

Learned counsel for the appellants submits that there is no dispute regarding income of the deceased assessed as ₹7500/- per month by the learned Tribunal, however, in terms of 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 should be afforded. It is further submitted that multiplier of 14 has been incorrectly applied and meagre compensation under the conventional heads has been awarded. It is, thus, prayed that compensation awarded to the claimants be reworked accordingly.

Learned counsel for the respondent - insurance company submits that deduction of 50% should have been effected as the deceased was a Bachelor. It is, thus, prayed this appeal be dismissed.

I have heard learned counsel for the appellants and respondent No. 3 and have gone through the available file.

There is no dispute that Sumran Kumar lost his life due to injuries received by him in a motor vehicle accident, which took place on 29/30.10.2015 due to the rash and negligent driving of Bus bearing registration No. HR-74-A-8802, by respondent No.1. Finding of the learned Tribunal on this issue has attained finality. It is also not disputed that the deceased was 21 years old at the time of the accident.

There is no dispute regarding income of the deceased to be ₹7,500/- per month as assessed by the learned Tribunal. Income of the deceased, as assessed by the learned Tribunal, is thus upheld as ₹7,500/- per month. 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% (₹3000/-) is afforded, as the deceased was 21 years old at the time of accident, which takes income of the deceased to ₹10,500/- per month. The claimants, in this case, are the widow mother and three minor siblings of the deceased. In this view of the matter, learned Tribunal has correctly effected deduction of 1/3rd instead of 50%, keeping 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. I do not find any ground whatsoever to apply deduction of 50% in this case, therefore, deduction of 1/3rd is to be applied, thereby rendering income of the deceased to be ₹7000/-(10500-3500). The question regarding multiplier to be applied while assessing loss of dependancy i.e. whether it should be applied on the basis of the age of the claimant or the deceased is no longer res integra. The Hon'ble Supreme Court in ***Munna Lal Jain v. Vipin Kumar Sharma, (2015) 6 SCC 347*** has held that multiplier applied should be with reference to the age of the deceased and not of the parents. The deceased, in this case, was admittedly 21 years old and unmarried at the time of the accident, therefore, multiplier of 18 instead of 14 is to be applied. Applying a multiplier of 18, dependancy of the claimants is assessed as ₹15,12,000/- (₹7000x12x18). The claimants are also entitled to ₹15,000/- each for funeral expenses (instead of ₹25,000) and loss of estate. 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** and decision dated 14.03.2019 of this Court in **FAO No. 2110 of 2016** titled **Shri Ram General Insurance Company Limited versus Beant Kaur and others,** appellant No. 1 i.e. mother of the deceased is entitled to ₹40,000/- on account of loss of filial consortium. Claimants are, thus, entitled to total compensation of ₹15,82,000/- detailed as under:-

Loss of dependency(₹7000x12x18).	₹15,12,000/-
Loss of filial consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹15,82,000/-

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above. Appellants are 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.

(Lisa Gill)
Judge

October 30, 2019
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No