IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 7994 of 2017
Date of Decision: March 05, 2019

Sunita Rani and others ...... Appellants(s)

Versus

Ramandeep Singh and others ..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Anil Kumar Spehia, Advocate
for the appellants.

Service upon respondents no.1 and 2 already dispensed with vide order dated 25.09.2018.

Mr. Vinod Gupta, Advocate
for respondent no.3-insurance company.

*****

<u>LISA GILL, J. (oral)</u>

This appeal has been filed seeking enhancement of compensation awarded to the claimants vide award dated 14.07.2017, passed by learned Motor Accidents Claims Tribunal, Shaheed Bhagat Singh Nagar (hereinafter referred to as 'the Tribunal).

Petition under Section 166 of the Motor Vehicles Act, 1988 was filed by the claimant-appellants who are the widowed mother, minor brother, unmarried sister and widowed paternal grand mother of the deceased namely Prince. It was pleaded that all the claimants were dependent upon the deceased who was looking after the family.

Learned Tribunal on considering the evidence on record, facts and circumstances concluded that Prince died in the motor vehicle accident, which took place on 28.04.2016, due to the rash and negligent driving of the offending car bearing registration No. PB-09P-9124 by its driver Ramandeep Singh-respondent no.1. Income of the deceased, who was admittedly 20 years old, was assessed at Rs.7,210.52/- per month while treating him to be a casual labourer. Deduction of 50% was effected. Learned Tribunal awarded a sum of Rs. 11,88,074/- as compensation to the appellants-claimants, the detail of which is as under:-

Sr. No.	***Heads of Claim***	***Amount***
1.	Income # 7,210.52 x 12	86,524/- per annum
2.	50% added on account of future prospects	86,524 + 43,262/ = 1,29,786/-
3.	50% deducted as personal expenses of the deceased	1,29,786 – 50% = 64,893/-
4.	Compensation after applying a multiplier of 18	64,893 x 18 = 11,68,074/-
5.	Funeral expenses	10,000/-
6.	Loss of love and affection	10,000/-
	Grand Total	**Rs. 11,88,074/-**

Present appeal has been filed seeking enhancement of the aforesaid compensation.

Learned counsel for the appellants submits that deduction of 50% has been wrongly effected keeping in view the number of dependents in this case. He submits that deduction should be 1/3rd in this case while not disputing that increment on account of future prospects should be 40% and not 50% as awarded by the learned Tribunal. It is submitted that compensation under the conventional heads should be enhanced.

Learned counsel for respondent no.3 does not refute the averments made by learned counsel for the appellants in respect to the percentage of increment on account of future prospects but submits that otherwise just and reasonable compensation has been afforded by the learned Tribunal. Deduction has been correctly effected and no ground is made out for any enhancement in the compensation.

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

There is no dispute regarding death of Prince in a motor vehicle accident, which took place on 28.04.2016, due to the rash and negligent driving of the offending car bearing registration No. PB-09P-9124 by its driver Ramandeep Singh - respondent no.1. Income of the deceased as assessed by the learned Tribunal as Rs.7210.52 ps. is also not in dispute. Learned counsel for the appellants is unable to deny that the deceased Prince is survived by his widowed mother, widowed grand mother, minor brother and unmarried sister. Though an attempt has been made to suggest that there is no evidence on record to prove that all the claimants were solely dependent upon the deceased, I do not find any merit therein. PW-1 claimant Sunita Rani i.e. the widowed mother of the deceased Prince specifically deposed that her son Prince aged about 20 years was working as a skilled painter and was supporting the entire family, which was solely dependent upon his income. It is relevant to note at this stage that there is not even a suggestion to PW-1 Sunita Rani that other family members were not dependent upon the income of the deceased Prince. The Hon'ble Supreme Court in ***Sarla Verma Vs. Delhi Transport Corporation 2009(3) RCR (Civil) 77*** has held that where family of a bachelor is large and the members are dependents on him, personal and living expenses of the deceased may be restricted to 1/3rd. Therefore, in the present case, deduction 1/3rd and not 50% should be made. At the same time as fairly conceded by the learned counsel for the appellants, increment on account of future prospects has to be awarded at the rate of 40% and not 50%. As the deceased was admittedly 20 years old at the time of the accident, multiplier of 18 was correctly applied by learned Tribunal. Claimants are entitled to a sum of Rs.15,000/- each on account of funeral expenses and loss of estate instead of Rs.10,000/- awarded by the learned Tribunal towards funeral expenses. In terms of the judgment of Hon'ble Supreme Court in ***Vimla Devi and others Vs. National Insurance Company Ltd. and another, 2019(1) RCR (Civil) 86***, the claimants are also entitled to consolidated sum of Rs.1,00,000/- on account of loss of consortium.

Appellants-claimants are, thus, entitled to compensation which is re-worked as under:-

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	7,210.52/- p.m. i.e. 86,524/- per annum
2.	40% added on account of future prospects	86,524 + 34,610/ = 1,21,134/-
3.	1/3rd deducted as personal expenses of the deceased	1,21,134 – 40378 = 80,756/-

4.	Compensation after applying a multiplier of 18	80,756 x 18 = 14,53,608/-
5.	Funeral expenses	15,000/-
6.	Loss of estate	15,000/-
7.	Loss of consortium to all the claimants	1,00,000/-
	Grand Total	**Rs.15,83,608/-**

Learned counsel for the appellants submits that amount in question was deposited after the stipulated period of three months, therefore, the claimants are also entitled to interest @ 7.5%. Needless to say, if it be so, the claimants are entitled to interest @ 7.5% of award dated 14.07.2017.

The claimants are 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. The amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Ratio of apportionment as well as manner of disbursement amongst the claimants as determined by the learned Tribunal shall remain the same.

Appeal is accordingly disposed of.

March 05, 2019.
Sunil

(LISA GILL)
JUDGE

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