IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

FAO No. 863 of 2017

Date of Decision: December 17 , 2019.

Gurpreet Kaur and others ...... APPELLANT

Versus

Asha Ram and others ...... RESPONDENTS

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Tajinder Pal Singh Makkar, Advocate
for the appellants.

Mr. Ajay Singla, Advocate
for respondent No.3 – Insurance company

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1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

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LISA GILL, J.

This appeal has been filed by the claimants seeking enhancement of compensation awarded to them by the learned Motor Accident Claims Tribunal, Ludhiana (for short, the 'Tribunal') vide impugned award dated 05.04.2016 on account of death of Ravinder Singh in a motor vehicle accident.

Brief facts necessary for the 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 Ravinder Singh, who lost his life in a motor vehicle accident which took place on 06.03.2015. FIR No.32/2015 dated

06.03.2015 under Sections 279/304A IPC Police Station Sadar Khanna was registered in respect to the incident. Deceased-Ravinder Singh, aged 45 years, is pleaded to be working as Bus Stand Incharge with Karan Bus Service as well as an agriculturist, earning a sum of ₹30,000/- per month. Compensation was thus prayed for.

Learned Tribunal on considering the facts and evidence on record concluded that Ravinder Singh died on account of the injuries received by him in motor vehicle accident, in question, which took place due to the rash and negligent driving of truck bearing registration No.PB-13-AB-7921 by respondent No.1-Asha Ram. Learned Tribunal, while assessing income of the deceased as ₹6,000/- per month, awarded a total amount of ₹9,98,600/- to the claimants. Increase in income at the rate of 30% was afforded on account of future prospects. Deduction to the extent of 1/3rd was effected. Multiplier of 14 was applied. ₹25,000/- was awarded on account of funeral expenses, besides, ₹1,00,000/- to claimant-widow on account of loss of consortium.

Learned counsel for the appellants argues that income of the deceased has been wrongly assessed by the learned Tribunal as ₹6,000/- per month, which is even less than the minimum wage available to an unskilled labourer in the State of Punjab at the relevant time. Therefore, even if compensation is reworked in terms of the judgments of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others**, ***2017(16) SCC 680*** and **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors.**, ***2018(4) RCR(Civil) 333***, the claimants are entitled to enhanced compensation. It is thus prayed that the amount of compensation awarded to the appellants be enhanced accordingly.

Learned counsel for respondent No.3-Insurance company refutes the abovesaid averments and submits that no ground is made out for any enhancement as just and reasonable compensation has been awarded to the claimants. Dismissal of the appeal is prayed for.

I have heard learned counsel for the parties and have gone through the photocopy of the record produced by learned counsel for the appellants in Court today.

There is no dispute regarding death of Ravinder Singh in a motor vehicle accident which took place on 06.03.2015 due to the rash and negligent driving of the offending vehicle bearing registration No.PB-13-AB-7921 by respondent No.1-Asha Ram. There is no challenge to this finding of the learned Tribunal in this regard.

The claimants pleaded the deceased to be working as Traffic Manager with Karan Bus Service at a salary of ₹20,000/- per month, earning an additional amount of ₹10,000/- per month from agricultural proceeds. Learned counsel for the appellants is unable to deny that there is, in fact, no evidence on record to indicate, firstly, the existence of Karan Bus Service and further that the deceased was an employee of the said establishment. The claimants examined CW3 Harbans Singh to prove the vocation and salary of deceased-Ravinder Singh. CW3 Harbans Singh has clearly stated that there is no practice to issue any employment certificate to the employee, neither was any entry made in any record of the establishment. Salary registers are not maintained and, neither was the said company paying the salary to its employees through cheque. Payments were made through cash. CW3 Harbans Singh further stated that he is not even aware whether Karan Bus Service was, in fact, an income tax assessee or not. In this view of the matter, learned Tribunal has correctly discarded the said evidence. However, it cannot be ignored that the minimum wage of an unskilled labourer in the State of Punjab at the time of the accident i.e., 06.03.2015, was ₹6,847/- per month. Accordingly, income of the deceased is assessed as ₹7,000/- per month, instead of ₹6,000/- per month.

Claimants are entitled to increment at the rate of 25% instead of 30% on account of future prospects in terms of the judgment of the Hon'ble Supreme in **Pranay Sethi (supra)**. Multiplier of 14 has been correctly applied. Deduction to the extent of 1/4th instead of 1/3rd, has to be effected keeping in view the number of dependants.

Instead of ₹25,000/- towards funeral expenses, ₹15,000/- is awarded to the claimant, besides, another sum of ₹15,000/- towards loss of estate. Appellant No.1 i.e., widow of the deceased is not entitled to ₹1,00,000/- for loss of consortium. She is held entitled to ₹40,000/- on account of loss of spousal consortium. Appellants No.2 and 3 are entitled to ₹40,000/- towards loss of parental consortium and appellants No.4 and 5 are held entitled to ₹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 Ltd. (supra)** as well as decision dated 14.03.2019 of this Court in FAO No.2110 of 2016 (Shri Ram General Insurance Company Ltd. v. Beant Kaur and others).

Appellants are, thus, entitled to compensation which is reworked as under:-

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	7,000 per month i.e., 84,000 per annum
2.	Total income after addition at the rate of 25% on account of future prospects	84,000 + (84,000 **x** 25%) = 1,05,000
3.	Deduction of 1/4th on account of personal expenses	1,05,000 – (1,05,000 **x** 1/4) = 78,750
4.	Total dependancy after applying a multiplier of 14	(78,750 **x** 14) = 11,02,500
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of spousal consortium to appellant No.1	40,000
8.	Loss of parental consortium to appellants No.2 and 3	40,000
9.	Loss of filial consortium to appellants No.4 and 5	40,000
	Grand Total	₹12,52,500/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Appellants shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of filing of the petition till realization. Ratio of apportionment and manner of disbursement shall remain the same as determined by the learned Tribunal.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

December 17 , 2019.
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No