IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

FAO No. 7170 of 2018(O&M)

Date of Decision: May 06 , 2019.

Cholamandlam MS General Insurance Company Ltd. ...... APPELLANT (s)

Versus

Nirmala and others ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Sanjeev K.Arora, Advocate
for the appellant.

Mr. Ravinder Arora, Advocate
for respondents No.1 and 2.

Ms. Shweta Nahata, Advocate
for respondents No.3 and 4.

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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.

CM No.26227-CII of 2018

There is a delay of 6 days in filing of the appeal.

For the reasons mentioned in the application duly supported by affidavit of the applicant, as well as arguments addressed, delay of 6 days in filing of the appeal is condoned.

Application is disposed of.

FAO No.7170 of 2018(O&M)

This appeal has been preferred by the Insurance company challenging award dated 17.08.2018 passed by the learned Motor Accident Claims Tribunal, Mohali (for short, the 'Tribunal') on a limited ground, that while affording compensation to the legal representatives of deceased-Komal, deduction towards personal expenses has been wrongly effected to the extent of 40%, rather than 50%.

Brief facts necessary for the adjudication of the case are that, the claimants/respondents No.1 and 2, who are parents of the deceased, filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of their daughter, who lost her life in a motor vehicle accident which took place on 20.02.2017. FIR (Ex.P3) was lodged in respect to the incident on the statement of PW2 Ritika Rohilla. Learned Tribunal on considering the facts and evidence on record concluded that the accident in question took place due to the rash and negligent driving of TATA Ace vehicle bearing registration No.HR-37C-3542 by respondent No.3-Paramjit Kumar @ Paramjit Sharma @ Paramjit Sudan. There is no challenge to this finding of the learned Tribunal.

Deceased-Komal was 20 years old at the time of the accident. Her notional income was assessed as ₹7,000/- per month. There is no challenge to the assessment of income of the deceased. Deduction to the extent of 40% was effected. Increment at the rate of 40% towards future prospects was afforded. Multiplier of 18 was applied. ₹15,000/- was awarded on account of funeral expenses. A total sum of ₹12,85,080/- was afforded to the claimants.

Learned counsel for respondents No.1 and 2/claimants fairly states that deduction in this case be effected at the rate of 50% on account of personal expenses, instead of 40% as has been done by the learned Tribunal. At the same time, it is prayed that ₹15,000/- towards loss of estate and ₹40,000/- towards loss of filial consortium be afforded, in terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors.**, ***2018(4) RCR(Civil) 333***.

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

There is no dispute regarding death of Komal, daughter of the claimants, in a motor vehicle accident which took place on 20.02.2017 due to the rash and negligent driving of the offending TATA Ace vehicle bearing registration No.HR-37C-3542 by respondent-driver, Paramjit Kumar @ Paramjit Sharma @ Paramjit Sudan. Neither is there a dispute regarding liability of the appellant-Insurance company. Increase in income at the rate of 40% on account of future prospects has been rightly afforded by the learned Tribunal keeping in view the observations of the Hon'ble Supreme Court in National Insurance Company Limited v. Pranay Sethi and others, *2017(16) SCC 680*. Multiplier of 18 has been rightly applied as well. However, learned Tribunal erred in effecting the deduction at the rate of 40%, instead of 50%.

Keeping in view the peculiar facts and circumstances of the case as well as stand of the parties, compensation awarded to claimants/respondents No.1 and 2 by the learned Tribunal is reworked to the extent that deduction at the rate of 50% be effected instead of 40%. Claimants would however be entitled to

₹15,000/- each towards loss of estate and funeral expenses and ₹40,000/- towards loss of filial consortium in terms of the judgments of the Hon'ble Supreme Court in Pranay Sethi (supra) and 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).

Respondents No.1 and 2/claimants are, thus, entitled to compensation of ₹11,28,400/- instead of ₹12,85,080/- as under:-

Sr.No.	*Heads of Claim*	*Amount*
1.	Income	7,000 p.m. i.e. 84,000/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	84,000 + (84,000 **x** 40%) = 1,17,600
3.	Net income after 50% deduction on account of personal expenses	1,17,600 – (1,17,600 **x** 1/2) = 58,800
4.	Total dependancy after applying a multiplier of 18	(58,800 **x** 18) = 10,58,400
5.	Loss of estate	15,000
6.	Funeral expenses	15,000
7.	Loss of filial consortium	40,000
	Grand Total	₹11,28,400/-

Appeal is accordingly disposed of with the modification as above in the amount of compensation.

(LISA GILL)
JUDGE

May 06 , 2019.
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No