FAO No. 4425 of 2014 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.M No. 12504-CII of 2014 in/and
FAO No. 4425 of 2014 (O&M)
Date of Decision: 11.05.2020.

Manjeet Kaur & Ors. ...Appellants

Vs.

Nafe Singh & Ors. ...Respondents

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Vaibhav Sehgal, Advocate, for the appellants.
Service of respondent Nos. 1, 2, 4 and 5 dispensed with vide order dated 13.09.2018.
Ms. Hasan Kaur, Advocate, for
Ms. Anamika Mehra, Advocate, for respondent No.3.

ALKA SARIN, J.

C.M No. 12504-CII of 2014

This is an application for condoning the delay of 417 days in filing the appeal.

No reply has been filed by the respondents to the said application.

For the reasons stated in the application, same is allowed and the delay of 417 days in filing the appeal is condoned.

FAO No. 4425 of 2014 (O&M)

The present appeal has been filed by claimant-appellants against the award dated 10.12.2012 passed by the Motor Accident Claims Tribunal, Ludhiana (for short, 'the Tribunal'), awarding an amount of `33,87,600/- alongwith 6% interest per annum from the date of filing of the claim petition till realization.

2. In brief the facts relevant to the present case are that on 19.09.2011, one Ravinder Singh was travelling in the bus bearing registration No. HR-47B-1015 from Ambala to Nirmal Kutia Chowk, Karnal. While Ravinder Singh and other

passengers were alighting from the bus, respondent No.1 started the bus and without paying attention to the signal by the conductor drove the bus at a high speed. In this process Ravinder Singh fell from the bus and suffered multiple grievous injuries. He ultimately succumbed to death. FIR No. 689, dated 19.09.2011 was registered at Police Station Karnal. A claim petition was filed by the claimant-appellants claiming that the deceased was 42 years of age and was employed with the General Hospital Karnal as a Refrigerator Technician and his income was ₹36,000/- per month. The parents of the deceased were arrayed as respondent Nos. 4 and 5 in the claim petition.

3. Respondent No.1 filed a written statement and denied that the accident took place due to his negligence rather he blamed the deceased for the accident. He further averred that the bus was insured with the New India Assurance Company Ltd. and that he was having a valid and effective driving licence.

4. Respondent No.2 also filed a separate written statement stating therein that the bus was insured with the New India Assurance Company Ltd., and that the driver was having valid and effective driving licence at the time of accident.

5. Respondent No.3 filed a written statement taking preliminary objection denying the factum of the accident itself and further that respondent No.1 was not holding a valid and effective driving licence at the time of accident as also that the bus did not have a valid registration certificate, route permit and fitness certificate at the time of alleged accident.

6. Respondent Nos. 4 and 5 i.e. the parents of the deceased filed a written statement stating therein that they were Class-I legal heirs of the deceased being parents and were dependent upon the deceased. It is further averred that they had no objection if the claim petition was accepted in favour of the claimants and answering respondents in equal shares.

FAO No. 4425 of 2014 (O&M)

7. On the issue of negligence, the Tribunal returned a finding that the accident occurred due to the negligence of respondent No.1. On issue No.5, the Tribunal returned a finding that respondent No.4, i.e. Rajinder Kaur, mother of the deceased was Class-I legal heir of the deceased. Qua quantum, the Tribunal returned a finding that the income of the deceased had been proved to be ₹27,330/- per month. The age of the deceased was taken as 41 years and a multiplier of 14 was applied. However, an amount of ₹5,000/- was taken as deduction towards GPF and ₹30 towards GIS and the carry home salary was assessed as ₹22,300/-. Thereafter, the Tribunal by taking the monthly income as ₹27,330/- and after deducting ₹6760 as income tax out of total annual income, assessed the salary as ₹3,21,200/- per annum. After applying 1/4th cut, the annual dependency was calculated as being ₹2,40,900/-. Thereafter, applying a multiplier of 14, the compensation was assessed as under:-

Compensation on account of death	:	₹33,72,600/-
Funeral Charges	:	₹5,000/-
Consortium to widow	:	₹ 10,000/-
Total Compensation + 6% Interest P.A.	:	₹ 33,87,600/-

8. The amount awarded was to be shared in the following proportion :-

Claimant No.1, widow	45%
Claimants No.2 to 4	15% each
Respondent No.4, mother	10%

9. Dissatisfied with the amount awarded, the present appeal has been preferred by the claimant-appellants.

10. I have heard the learned counsel for the parties.

FAO No. 4425 of 2014 (O&M)

11. It has been contended by the learned counsel for the appellants that no amount has been awarded towards future prospects as well as the amount awarded under conventional heads and towards consortium are on the lower side. He relies upon the judgment of Hon'ble Supreme Court in the following cases:-

1. ***Sarla Verma Vs. Delhi Transport Corporation, 2009 (3) RCR (Civil) 77;***
2. ***National Insurance Co. Ltd. Vs. Pranay Sethi and Ors., 2017 (16) SCC 680;***
3. ***Magma General Insurance Co. Ltd Vs. Nanu Ram alias Chuhru Ram & Ors., 2018(4) RCR (Civil) 333.***

12. Per contra, learned counsel for respondent No.3 - Insurance Company has contended that the amount awarded is already on the higher side and there was no scope for any further enhancement.

13. The law is well settled and as per the dictum laid down by the Hon'ble Supreme Court in ***Sarla Verma***, ***Praney Sethi*** and ***Magma General Insurance Co. Ltd's*** cases (Supra), the claimants would be entitled to future prospects as well as the amount assessed under the conventional heads and consortium.

14. In the present case, I find that neither has any amount been awarded under the Conventional Heads nor has the Consortium been awarded, as per dictum in ***Magma General Insurance Co. Ltd's*** case (Supra).

15. In view of the above, I deem it just and proper to award the following compensation:-

Monthly Income	₹ 27, 330/-
Annual Income	₹3,27,960/-
After deducting Income Tax in 2011 (10%	₹2,95,164/- (3,27,960-32,796)

FAO No. 4425 of 2014 (O&M)

1/4th deduction	₹2,21,373/-(2,95,164 – 73,791)
Future Prospects (30%)	₹2,87,785/-(2, 21,373 – 66,412)
Multiplier (14) (41 years)	₹40,28,990/-
Loss of Estate	₹15,000/-
Funeral Expenses	₹15,000/-
Spousal Consortium	₹40,000/-
Parental Consortium to children (2 to 4)	₹1,20,000/-
Filal Consortium to mother (Respondent No.4)	₹40,000/-
Total Compensation	₹42,58,990/-

16. The enhanced amount of ₹8,71,390/- awarded over and above the amount granted by the Tribunal shall carry an interest @ 6% per annum from the date of the filing of the claim petition till the date of realization and shall be divided in the same proportion as directed by the Tribunal.

17. In view of the above the appeal is allowed and the award passed by the Tribunal stands accordingly modified.

May 11, 2020 **(ALKA SARIN)**
tripti **JUDGE**

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No