IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.670 of 2008 (O&M)
Date of Decision: February 06, 2015

Gurdeep Kaur and others

..Appellant(s)

Versus

Jagmohan Singh Rana and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? Yes

Present: Mr. Harsh Aggarwal, Advocate
for the appellants.

Mr. Karminder Singh, Advocate
for respondent no.3.

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ANITA CHAUDHRY, J.

1. This is the claimants' appeal seeking enhancement in the award dated 17.10.2007, passed by the Motor Accident Claims Tribunal, Hoshiarpur (here-in-after referred to as the Tribunal).

2. Before referring to the submissions made on behalf of the appellants, it is apposite to refer to the relevant facts. In an accident which occurred on 29.10.2006, Paramjit Singh suffered injuries which proved fatal. An FIR was registered

against the offending driver. The claimants' plea was that the deceased was earning Rs.25,000/- per month and was 45 years old. The Tribunal assessed the evidence and noted that the deceased had an NRI account in State Bank of Patiala and there were remittances of about Rs.13000 - 14000/- per month. The insurance company had urged that mere remittances were not enough to prove that the deceased was employed in a foreign country and that evidence could not be considered. The Tribunal took the income of the deceased at Rs.4,500/- per month and made a deduction of 1/3rd, applied the multiplier of 12 to calculate the compensation of Rs.4,32,000/-. A sum of Rs. 3,000/- for funeral expenses and Rs.10,000/- for loss of estate were added.

3. The record of this case had been burnt in fire incident which broke out on 30.01.2011 and the appellants had placed some documents for reconstruction of the record. Learned counsel for both the parties had stated that they had no objection if the matter was decided on the basis of record available.

4. The submission made on behalf of the appellants was that a specific plea was taken that the deceased was a Steel Erector with the company and he was getting salary of Rs.25,000/- per month and Paramjit Singh returned to India on 22.08.2006 and met with an accident in October, 2006. It was urged that the copy of the passport and the account opening form had been produced which would show that bi monthly, deposits were being made in the account and the

copy of the passport would show that the deceased had gone to Libya.

5. The counsel for the appellants referred to Mark-A and contended that a certificate was issued to Paramjit Singh on his return from Libya and he was to return. It was urged that the Tribunal had taken the deceased to be a labourer and had calculated the compensation which is on the lower side and compensation be calculated taking his actual income and Rs.1,00,000/- be awarded for loss of consortium, Rs.1,00,000/- for loss of love and affection and Rs.25,000/- for funeral expenses. It was urged that since the number of family members were large a deduction of 1/4th should have been made. A submission was also made that the interest awarded by the Tribunal was on the lower side.

6. The counsel for the insurance company supported the judgment and urged that no appointment letter had been produced and the claimants failed to show the educational qualifications of the deceased and Mark-A had not been proved and it does not refer to the salary. It was urged that the certificate refers to the period of stay and there is no evidence that the deceased was to go back and join the same concern. It was urged that the minimum wages in 2006 were not more than Rs.3,500/- per month and the Tribunal had taken the income as Rs.4,500/- per month which is on the higher side. It was urged that mere remittances into the account of the deceased do not prove that these were related

to salary and something more was required to be shown. It was urged that it is very easy to get information as communication has improved and a response through e-mail from the concern with respect to the salary could have been called for.

7. The claimants had pleaded that the deceased was working in a concern in Libya but they were unable to lead cogent and convincing evidence to prove his income. Mark-A certificate had not been proved. The Tribunal had rightly ignored the oral statement of the claimants. The minimum wages in Punjab in 2006 of a highly skilled worker were not more than Rs.3,200/- per month. The Tribunal had taken the income to be Rs.4,500/- per month. I would make no change so far as the income is concerned. The deceased had returned in India in August, 2006. There is no evidence to show that there was any work permit which entitled him to return to Libya to work for any concern. If the deceased is taken as a highly skilled worker then there has to be some addition towards future prospects as per ***Rajesh and others Vs. Rajbir and others (2013) 9 SCC 54***.

8. The deceased was over 40 years of age, therefore, an addition of 30% will have to be made. Taking the income to be Rs.4,500/- per month and making an addition of 30%, the income would come to Rs.5,850/- per month. Considering the large number of family members, a deduction of 1/4th should be made and the amount available for the family would be

Rs.4,388/- per month. The annual contribution would come to Rs.52,656/-. The multiplier applicable would be 14 as per the decision of Hon'ble Supreme Court in ***Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another 2009(6) SCC 121.*** The compensation would then come to Rs.7,37,184/-. To this, a sum of Rs.25,000/- should be added for loss of consortium, a sum of Rs.15,000/- is added more on the head of loss of estate, a sum of Rs.7,000/- more is added for funeral expenses and a sum of Rs.25,000/- is added for loss of love and affection; raising the total to Rs.8,09,184/-. I would make no change in the interest as the prevailing interest were as allowed by the Tribunal. The Tribunal had awarded a sum of Rs.4,45,000/-, which would be deducted and the remaining amount would be payable within 2 months failing which the appellants would be entitled to interest @ 6% from the date of filing of the appeal till realization. The amount would be shared by the appellants in the same ratio as allowed by the Tribunal.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

February 06, 2015
sunil