IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. F.A.O No. 1958 of 2013

Parkash Ram and anr. ...Appellants

Versus

Balbir Chand @ Bhutto and others ...Respondents

2. F.A.O No. 1959 of 2013

Kushal and others ...Appellants

Versus

Balbir Chand @ Bhutto and others ...Respondents

Date of decision:- 08.09.2015

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Pankaj Katia, Advocate
for the appellants in both FAO's

Mr. Rajnish Malhotra, Advocate
for respondent No. 3-Insurance Company in both FAO's

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RITU BAHRI J. (Oral)

1. Two appeals, as noticed above, are being disposed of by this common judgment, having arisen out of the impugned Award dated 05.02.2013 passed by the learned Motor Accident Claims Tribunal, Jalandhar.

Facts not in dispute

2. On 28.11.2009, Ranjit Kumar and his wife (since deceased)

had gone to village Salkiana to the house of his brother and Harjinder Pal had also gone to village. Ranjit Kumar along with his wife and Geeta daughter of Parkash Ram had started from vilalge Salkiana in a car bearing No. PB-08-V-9252 for going to their village Akalpur Road, Phillaur. They were followed by Harjinder Pal at some distance on his motorcycle and when they reached in the area of village Rasulpur, a little ahead of the bus stand of the said village, a truck bearing No. PB-08-BB-9441 being driven rashly and negligently came from the opposite side and hit the car of the deceased. As a result of the impact, all the occupant of the car got killed at the spot. Harjinder Pal had witnessed the said accident. The offending vehicle was being driven by respondent No. 1, who ran away from the spot. F.I.R No. 210 dated 29.11.2009 was got registered in this regard.

COMPENSATION ASSESSED BY THE MACT

3. In case of Geeta, the learned Tribunal assessed the income of Geeta at Rs.4000/- per month and 50% deducted towards personal expenses and the annual dependency comes to Rs.24000/- and considering the age of the deceased, the multiplier of 11 was applied. The claimants were awarded compensation of Rs.2,64,000/- and Rs.5000/- each towards loss of estate and funeral expenses. The total compensation comes to Rs.2,74,000/-

4. In case of Ranjit Kumar, his salary was taken at Rs.26683

and 30% added as future prospects and monthly incomes comes to Rs.34,687 and yearly income comes to Rs.4,16,254/- and 30% deducted towards income tax and his yearly salary comes to Rs.2,91,378 and 1/3 was deducted towards personal expenses and after deduction, the amount comes to Rs.1,94,252/-. Multiplier of 14 was applied and the amount of compensation comes to Rs.27,19,528 and Rs.10,000/- was awarded towards loss of estate and Rs. 5000/- towards funeral expenses. The total compensation comes to Rs.27,34,528/-

Arguments Advanced

5. The learned counsel for the claimants-appellants contends that in a case of Ranjit Kumar the learned Tribunal has erred in deducting the amounts under the head HRA, R.A.A and MA from the salary of the deceased and in the case of Geeta, future prospect has not been given and multiplier of 11 has been applied. Thus the compensation awarded to the appellants/claimants deserves to the enhanced, in view of the judgment ''***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77', 'Rajesh and others vs. Rajbir Singh and others, 2013 (9) SCC 54' and 'Munna Lal Jain and another vs. Vipin Kumar Sharma and others, 2015(3) Recent Apex Judgments 459', Asha Verman and others vs. Maharaj Singh and others, 2015(2) RCR (Civil) 520 and Kalpanaraj and others v. Tamil Nadu State Transport***

Corporation, 2015(2) SCC (Civil) 193

6. On the other hand, learned counsel for Insurance Company opposed the prayer made by the claimants

REASSESSED COMPENSATION

7. I have heard learned counsel for the parties and perused the case filed.

8. It is not in dispute that the accident had taken place and the offending vehicle was fully insured with the Insrurance company.

9. In a case of Ranjit Kumar (since deceased), reference at this stage can be made to a judgment of Hon'ble the Supreme Court in a case of ***Vikram Kanwar and others vs. Kishore Dan and others, 2013 (3) SCC (Cri) 583*** wherein in a government servant died due to a road accident and the learned Tribunal while assessing his income has not including the P.F, Insurance receivable etc and Hon'ble the Supreme court has held that such an amount will not come within the periphery in the Motor Vehicles Act to be termed as Pecuniary Advantage liable for deduction.

10 Reference can further be made to a judgment of Hon'ble the Supreme Court in a case of ***Lal Dei and others v. Himachal Road Transport, 2007(8) SCC 319*** wherein in para 4 of the judgment, it has been observed as under:-

4. XXX XXX XXX

The Motor Accidents Claims Tribunal as well as the High Court could not have deducted the amount of family pension given to the family while calculating the dependency of the claimants. In Helen C. Rebello vs. Maharashtra SRTC, this Court has specifically dealt with this question and said that the family pension is earned by an employee for the benefit of his family in the form of his contribution in the service in terms of the service conditions receivable by the heirs after his death. The heirs receive family pension even otherwise than the accidental death. There is no co-relation between the two and therefore, the family pension amount paid to the family cannot be deducted while calculating the compensation awarded to the claimants."

11. In the facts of the present case, Ranjit Kumar was drawing a salary of Rs.30127 which includes Rs.2101 as HRA, 843 as R.A.A and Rs.500 towards M.A, as per salary certificate Ex P.W.3/A and the learned Tribunal should have included this amount while assessing the compensation, in view of the above mentioned judgments.

Re-assessed compensation

Ranjit Kumar

Sr. No.	***Heads***	***Calculations***
(i)	Salary	Rs.30127/- per month (rounded of to Rs.30120)
(ii)	30% of (i) above to be added as future prospects=	Rs.30120+Rs.9036=Rs.39,156/-
(iii)	1/3 of (ii) deducted as personal expenses of the deceased=	Rs.39156-Rs.13052=Rs 26104 per month
(iv)	Compensation after multiplier of 14 is applied	Rs.26104 X 12 X 14= Rs.43,85,472/-
(v)	Loss of love and affection to 3 children	Rs.1,00,000/- each
(vi)	Funeral charges	Rs.25,000/-
(vii)	Total Compensation awarded	Rs.47,10,472/-
(viii)	Enhanced amount of compensation	47,10,472 -27,34,528=Rs.19,75,944/-

Geeta

Sr. No.	***Heads***	***Calculations***
(i)	Salary	Rs.4000/-
(ii)	50% of (i) above to be added as future prospects=	Rs.4000+Rs.2000=Rs.6,000/-
(iii)	1/2 of (ii) deducted as personal expenses of the deceased=	Rs.6000-Rs.3000=Rs 3000 per month
(iv)	Compensation after multiplier of 18 is applied	Rs.3000 X 12 X 18= Rs.6,48,000/-
(v)	Loss of love and affection to parents	Rs.50,000/- each
(vi)	Loss of estate	Rs.1,00,000/-
(vii)	Funeral charges	Rs.25,000/-
(viii)	Total Compensation awarded	Rs.8,73,000/-
(ix)	Enhanced amount of compensation	8,73,000 -2,74,000=Rs.5,99,000/-

12. Resultantly, the enhanced amount of compensation of Rs.5,99,000/- (in FAO No. 1958 of 2013) and Rs.19,75,944/- (in FAO No. 1959 of 2013) shall be payable to the appellants within a period of forty five

days from the date of receipt of certified copy of this order. The enhanced amount of compensation shall carry interest @ 9% per annum from the date of filing of the claim petition, till its realization, in view of the judgment of Hon'ble the Supreme Court in a case of ***Kumari Kiran through her father Harinarayan vs. Sajjan Singh and others, 2015(1) SCC 539***. Remaining conditions of disbursal of amount shall remain unaltered.

13. With the aforesaid modification in the impugned award, the appeals are allowed to the above extent

September 08, 2015 (***RITU BAHRI***)
G Arora ***JUDGE***