IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2800 of 2013 (O&M)
Date of Decision:06.10.2015

Lajwant Kaur alias Rajwant Kaur and others

....Appellants

Versus

Kishan Lal and others

....Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Argued by: Mr. Vivek Suri, Advocate for the appellants.

Mr. Suvir Dewan, Advocate for respondent No.3-
New India Assurance Company Ltd.

NAVITA SINGH, J.

1. This appeal is preferred against award dated 02.04.2013 passed by Motor Accident Claims Tribunal, Patiala (Tribunal for short) granting compensation to the tune of Rs.17,65,000/- to the appellants on account of death of Harjit Singh, husband of appellant No.1, father of appellants No.2 and 3, in a motor vehicle accident which took place on 03.11.2011.

2. Harjit Singh had died in a road accident which took place on 03.11.2011 while he was going on a motorcycle with his wife as a pillion rider. He was going on the Patiala-Rajpura road towards his residence in Commando Complex, Bhadurgarh when the offending vehicle i.e. Car No.HR-01B-5709 struck the motorcycle as it was being driven in a rash and negligent manner. Harjit Singh died on the following day while his wife received injuries. His age at the relevant time was 37 years and he being an employee of the Punjab Police was drawing a salary of Rs.26,023/- per month. Compensation awarded was 17,65,000/-.

3. Counsel for the appellant contended that the short point involved was that despite the salary of the deceased being proved on record, deduction was made in the same and his salary was taken to be Rs.13,000/- per month, which was the carry home salary. The Tribunal observed that the legal heirs had been paid on account of leave encashment of the deceased, his gratuity, family pension, provident fund and Rs.1,00,000/- as Ex-gratia. Also the widow had been given a job and her salary was Rs.13,500/- per month. She was also getting family pension. The income of the deceased for the purpose of awarding compensation was taken to be Rs.13,000/- per month.

4. Counsel for the appellant relied on Vimal Kanwar and others vs. Kishore Dan and others, 2013(2) RCR(C) 945 in which it was held that provident fund of the deceased, insurance receivable by the claimants and salary received on compassionate appointment were not such benefits as were liable for deduction. The normal salary of the deceased was to be taken on that count. In the present case, the salary of the deceased will be taken on Rs.26,023/- per month, taken to be a round figure of Rs.26,000/-.

5. It was argued that since the deceased was employed in a permanent government job, 50% of the salary was to be added towards future prospects as well. The Tribunal denied the benefit erroneously. In view of Vimal Kanwar (supra) since the salary receivable by the claimants on compassionate appointment is not to be deducted, future prospects should not have been denied. The deceased would have earned increments and was to work for another twenty years. The monthly income for the purpose of awarding compensation would, therefore, be Rs.39,000/- including future prospects. Making deduction of $1/4^{th}$ and applying multiplier of 15, amount would come to Rs.52,65,000/-. An amount of Rs.5000/- only was awarded for loss of consortium to the widow. Thus, the amount is enhanced to Rs.1,00,000/-. An amount of

Rs.20,000/- is granted as funeral expenses over and above the amount already given. Thus, the total compensation comes to Rs.53,80,000/-. The amount as above which is to be paid by the Insurance Company shall be paid after deducting income-tax.

6. The appeal is disposed of accordingly.

(NAVITA SINGH)
JUDGE

06.10.2015
Ishwar

Whether to be referred to reporter: Yes