

FAO No. 3223 of 2013

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 3223 of 2013

Date of Decision : 07.10.2016

Sahabudin and others

...Appellants

Versus

Anil and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Ms. Kamlesh, Advocate for
Mr. Parminder Singh, Advocate for the appellants.

Mr. Rajbir Singh, Advocate
for respondent No. 4-HFC ERGO Gen. Ins. Co. Ltd.

Rekha Mittal, J.(Oral)

Sahabudin and others (claimants) are in appeal seeking enhancement of compensation in regard to death of Gulfam on 11.09.2010 as he sustained injuries in a motor vehicular accident that took place on 08.09.2010.

The Motor Accident Claims Tribunal, Karnal (for short 'the Tribunal') assessed income of the deceased at ₹4800/- per month, deducted 50% towards personal expenses, adopted multiplier of 18 to compute loss of dependency to the tune of ₹5,18,400/-. In addition, an amount of ₹15,000/- has been awarded for transportation, last rites and medical expenses, making total compensation to ₹5,33,400/- payable with interest @ 9% per annum.

Counsel for the appellants has submitted that the deceased was

running a barber shop in Indri and earning more than ₹20,000/- per month, therefore, loss of income for computing loss of dependency is liable to be enhanced. The Tribunal has not allowed benefit of increase in income for future prospects and compensation awarded under conventional head also needs addition.

Counsel for respondent No. 4-Insurance Company, on the contrary, has supported award of the Tribunal with the submission that there is no satisfactory much less tangible evidence to establish that the deceased was running a barber shop much less earning ₹20,000/- per month.

I have heard counsel for the parties, perused the paper book and the records.

One of the claimants Sahabudin, father of the deceased appeared in the witness box and tendered into evidence affidavit Ex. PW3/A and deposed that Gulfam was running a hair saloon near Aneja Happy School in main Bazaar Indri, had employed three persons and earning ₹30,000/- per month after meeting expenses of business. Ram Rattan PW4 tendered into evidence affidavit Ex. PW4/A stating that he had been working at the shop of barber run by Gulfam near Aneja School. In his cross-examination, he stated that Dr. Sham Sunder is owner of the shop. A rent agreement was written between Gulfam and Dr. Sham Sunder. Dr. Sham Sunder has not been examined to prove if he has a shop, which was on rent with Gulfam. Statements made by the witnesses do not find corroboration from any independent source much less documentary evidence. Under these circumstances, the claimants have failed to adduce satisfactory evidence to establish that deceased was running a barber shop or earning ₹30,000/- per

month.

The Tribunal has assessed income at ₹4800/- per month by taking into consideration the minimum wage available in the year 2010. However, the Tribunal has not allowed benefit of future prospects to the extent of 50%. After extending benefit of future prospects, loss of dependency comes to ₹7,77,600/- [₹10,36,800/- (4800 x 12 x 18) + ₹5,18,400/- (50% future prospects) - ₹7,77,600/- (50% deduction towards personal expenses)].

The claimants are awarded an amount of ₹25,000/- each for expenses on funeral and loss of estate. The deceased sustained injuries on 08.09.2010 and died on 11.09.2010 while lying admitted in PGI, Chandigarh. Though the claimants have not produced any documentary evidence with regard to medical expenses but keeping in mind that the deceased sustained serious injuries that eventually proved fatal, an amount of ₹20,000/- is allowed for expenses on transportation and treatment. In this manner, total compensation comes to ₹8,47,600/- and the enhanced compensation is ₹3,14,200/-. The enhanced compensation shall be paid to the claimants as per the terms and conditions laid down by the Tribunal and shall carry interest @ 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

October 07, 2016.

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(REKHA MITTAL)

JUDGE

Whether speaking/reasoned?

Yes/No

Whether reportable?

Yes/No