IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 1569 of 1994 (O&M)
Date of Decision: November 06, 2017

Rajwinder Kaur and others ..Appellant(s)

Versus

G.M. Himachal Road Transport Corp. and ors. ...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Manish Dadwal, Advocate
for the appellants.

Mr. Ravinder Arora, Advocate
for respondent no.1.

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ANITA CHAUDHRY, J.

Delay condoned.

This is the claimants' appeal seeking enhancement in the award dated 24.01.1994, passed by the Motor Accident Claims Tribunal, Hoshiarpur (here-in-after referred to as the Tribunal).

The record of this file had been burnt in the fire accident which had taken place in the year 2011. Only the copy of the award could be reconstructed. None of the parties could give any material for reconstruction of the record. The counsels appearing for the parties agreed that the matter can be decided on the basis of whatever is available on the record.

Parshan Singh died in an accident which occurred on 07.04.1993. The claimants had pleaded that the deceased was a driver working for the company for the last 10 – 12 years and his salary was Rs. 2,000/- per month. He was also getting daily allowance which used to add up a sum of Rs. 2,000/-. The Tribunal recorded a finding that PW-1 had deposed that the deceased was getting Rs. 2,000/- per month as salary and he was also getting Rs.50/- per day as daily allowance. The Tribunal noted in para 10 of the award that Parshan Singh was getting Rs. 3,000/- per month. The Tribunal failed to make any calculation nor applied the multiplier or the unit method and awarded a lump sum amount of Rs. 2,15,000/- and apportioned the amount between the widow and the minor children.

The submission on behalf of the appellants is that no amount had been awarded on the miscellaneous heads and there should have been an addition of future prospects as the proved income was Rs.3,000/- per month. It was urged that the deceased was 30 years old, therefore, the addition would be 40% in view of the latest judgment rendered by Hon'ble Supreme Court in ***National Insurance Co. Ltd. Vs. Pranay Sethi*** in SLP (Civil) No.25590 of 2014. It was urged that no amount had been allowed for loss of consortium or for loss of estate and for loss of love and affection for the children and a deduction of 1/4th should be made and a multiplier of 17 should be applied.

The Tribunal though assessed the income but gave a lump sum amount as compensation without applying the unit method or multiplier method and did not allow any amount on the miscellaneous heads.

The claimants had proved that the deceased was getting fix salary of Rs. 2,000/- per month and the Tribunal had arrived at a finding that he was getting Rs. 50/- per day as daily allowance. The deceased was working in Bombay (Maharashtra) while his family was living in Hoshiarpur (Punjab). For the purposes of making an addition towards future prospects, the income alone would be considered. Taking the income to be Rs. 2,000/- per month and making an addition of 40%, the income would be Rs. 2,800/- and making a deduction of $1/4^{th}$, the amount available for the family would be Rs. 2,100/- per month. The compensation would be Rs.2,100 x 12 x 17 = Rs. 4,28,400/-. Considering that the accident is of 1993, I would add Rs.15,000/- for loss of consortium, Rs. 3,000/- as funeral expenses and Rs. 10,000/- for loss of estate. The total of this comes to Rs.4,56,400/-. The Tribunal had allowed Rs.2,15,000/-, which would be deducted and the balance amount would be paid only to appellant no.1 as the children would now have become major and would be settled. So it is the widow alone who would be entitled to the enhancement. The amount would be paid by the respondents with interest @ 6% from July 1994 till realization.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

November 06, 2017

sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No