IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1557 of 2001 (O&M)
Date of decision: 31.10.2017

STATE OF PUNJAB AND ANR. ...Appellants

Versus

AMARJIT KAUR AND ORS ...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Kuldeep Singh, Sr. DAG, Punjab

Ms. Sonal Datta, Advocate and
Mr. Varun Mittal, Advocate for respondents No.1 to 3, 5 and 6.

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REKHA MITTAL, J. (Oral)

The present appeal directs challenge against award dated 27.07.2000 passed by the Motor Accidents Claims Tribunal, Rupnagar whereby compensation has been awarded in regard to death of Baldev Singh in a motor vehicular accident that took place on 23.06.1999.

The Tribunal has assessed income of the deceased at Rs.6138/- per month, deducted 1/3rd for personal expenses and applied multiplier of 13 to compute loss of dependency/compensation at Rs.6,38,352/- payable with interest @ 12% per annum from the date of petition till realization.

Counsel for the appellants has submitted that the Tribunal has committed an error by taking into consideration pension of Rs.1948/- per month while assessing income of the deceased at Rs.6138/-. The Tribunal has wrongly applied multiplier of 13 but the admissible multiplier would be 11 as the deceased was more than 51 years old on the basis of his date of birth i.e. 16.05.1948 recorded in his service record and proved by AW-4.

Counsel representing the claimants, on the contrary, would urge that income of the deceased assessed by the Tribunal is based upon documentary evidence produced by the witnesses examined to prove his pension being a retiree from Indian Army and salary as he was working as Security Guard in PGI, Chandigarh. The claimants are entitled to benefit of increase in income for future prospects qua salary of Rs.4190/- drawn by him and compensation under conventional heads.

I have heard counsel for the parties, perused the paper book particularly the award.

The Tribunal in Para 15 of the award has discussed the evidence adduced by the claimants to prove that deceased was drawing pension of Rs.1948/- per month as he retired from Indian Army from the post of Naik. It has also been established on record that after his retirement from Army, deceased was working as Security Guard in PGI, Chandigarh at a monthly salary of Rs.4190/-. There is nothing on record suggestive of the fact that family of the deceased is entitled to pension after death of Baldev Singh. That being so, contention of the appellants that pension paid to deceased is to be ignored for computing loss of dependency is untenable. In the light of enunciation laid down by Hon'ble the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and Ors.** Special Leave Petition (Civil) No. 25590 of 2014, decided on 31.10.2017, admissible addition for future prospects would be 10% but only qua income of Rs.4190/- per month. The admissible multiplier in the light of judgment **Sarla Verma & Ors Vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77** would be 11. In this manner, loss of dependency comes to (Rs.4190 x 12 x 11 + 10% (future prospects) - 1/3rd (deduction for personal expenses)) + (Rs.1948 x 12 x 11 - 1/3rd (deduction for personal expenses)) = Rs.5,77,016/-.

The Tribunal has not awarded any compensation under conventional heads. The occurrence in question took place in June, 1999. Taking into consideration the aforesaid judgment of Hon'ble the Apex Court passed on 31.10.2017 coupled with the date of occurrence, the claimants shall be entitled to following compensation under conventional heads:-

Loss of consortium to the widow	Rs.30,000/-
Expenses on funeral	Rs.10,000/-
Loss of estate	Rs.10,000/-
Total	**Rs.50,000/-**

In this manner, compensation is reduced to the tune of Rs.11,336/- (6,38,352 – 6,27,016). The appellants shall be entitled to recover the amount paid in excess by filing an application before the Tribunal.

The appeal is partly allowed in the aforesaid terms.

31.10.2017 **(REKHA MITTAL)**
ashok **JUDGE**

Whether speaking/reasoned: Yes / No
Whether reportable: Yes / No