IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O. No.1934 of 2007
Date of Decision:-12.12.2017

Smt. Rita Devi and others .... Appellants

vs.

Joginder Singh and others .... Respondents

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BEFORE :- HON'BLE MR. JUSTICE SUDHIR MITTAL

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Present:- None for the parties.

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SUDHIR MITTAL, J. (Oral)

Case has been called twice. None is present on behalf of the parties. Appeal is of the year 2007 and hence I proceed to decide the appeal in the absence of the parties.

2. The appellants are the widow and sons of deceased Shambhu Shah Gupta, who died in a motor accident on 27.6.2004. The Motor Accidents Claims Tribunal, Gurgaon (hereinafter referred to as 'the Tribunal') granted compensation of Rs.3,92,500/- along with interest @ 7.5% per annum on account of the death of the bread-winner of the family. Aggrieved by the inadequacy of the awarded compensation, the present appeal has been filed.

3. The bare facts necessary for decision of this appeal are that the accident took place on 27.06.2004 when the deceased Shambhu Shah Gupta was returning from Manesar to his place of work on a scooter along with

one Risal Singh (a co-employee), who was riding pillion with him. At around, 2.00 p.m., a truck bearing registration No. HR-26-D-9291 came from behind and hit the scooter resulting in the death of Shambhu Shah Gupta. The deceased was working as a Store Incharge in M/s Tex N Nets and was drawing salary of Rs.7500/- per month (as per the claim petition). He was aged about 35 years.

4. The learned Tribunal held the driver of the truck guilty of rash and negligent driving. Neither the driver nor the owner of the said truck has challenged the said finding and, therefore, the same is affirmed.

5. The dispute is only regarding the quantum of compensation assessed by the learned Tribunal. The Tribunal has accepted the factum of employment of the deceased as a Store Incharge in Tex N Nets, however, the salary certificate Exhibit PW-6/A produced by PW-6-Sube Singh, Personnel and Excise Officer of the said Company has been disbelieved on the ground that the account books, attendance register and break-up of salary etc. have not been produced. The income has been assessed as Rs.3,000/- per month. Further, the age of the deceased has been held to be 36 years on the basis of the post-mortem report Exhibit P-1, whereas in the claim petition, it is mentioned as 35 years. Accordingly, multiplier of '15' has been taken.

6. In my view, the income of the deceased has been wrongly assessed as Rs.3,000/- per month. No reason whatsoever has been given for reaching the said figure. A salary certificate has been produced on record by an official of the company in which the deceased was working. Once, the Tribunal accepts the fact that the deceased was employed in M/s

Tex N Nets, there is no conceivable reason for rejecting the salary certificate produced by an official of the said company. Thus, I accept the salary certificate Exhibit PW6/A and hold the monthly salary to be Rs.7500/- per month, as claimed by the appellants in the claim statement. The age of the deceased is taken as 35 years as it would be more beneficial to the heirs of the deceased and the Motor Vehicles Act, 1988 has been enacted as a beneficial piece of legislation for the welfare of third parties involved in accidents and this intention of the legislature must be kept in mind while deciding claim petitions. Hence, multiplier of 16 is applicable.

7. The deceased has left behind a widow and three children i.e. a total of four dependants. Thus, the deduction of 1/4th is to be made from the income of the deceased for personal expenses and 3/4th of his salary would be the dependency. Accordingly, the compensation is assessed as follows:-

1	Annual Income (7500x12)	Rs.90,000/-
2	Increase of 50% in income on account of future prospects (90,000+45,000)	Rs.1,35,000/-
3	Deduction of 1/4th on account of personal expenses (1,35,000-33,750)	Rs.1,01,250/-
4	Annual dependency applying multiplier of 16 as deceased was 35 years of age (1,01,250x16)	Rs.16,20,000/-
5	Loss of estate	Rs.15,000/-
6	Loss of consortium	Rs.40,000/-
7	Funeral expenses	Rs.15,000/-
	Total compensation	**Rs.16,90,000/-**

8. The appeal is accordingly allowed. The enhanced compensation will be payable by the Insurance Company along with interest @ 7.5 % per

annum from the date of claim petition till the date of payment, within a period of three months of the date of receipt of a certified copy of this judgment.

December 12, 2017 **(SUDHIR MITTAL)**
poonam **JUDGE**

Whether Speaking/Reasoned **Yes**

Whether Reportable **Yes**