

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.5655 of 2013 (O&M)
Date of Decision: February 21, 2017

Rajneesh Rattan and others

..Appellant(s)

Versus

Baljinder Singh and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Ankur Gupta, Advocate
for the appellants.

Respondent no.1 already *ex parte*.

Ms. Aarti, Advocate for
Mr. Rajiv Kataria, Advocate
for respondent no.2.

Mr. Gopal Mittal, Advocate
for respondent no.3-insurance company.

ANITA CHAUDHRY, J.

This is the claimants' appeal seeking enhancement in the compensation allowed to them by the Motor Accident Claims Tribunal, Ludhiana vide award dated 02.07.2013.

Gurveer Kaur, aged 25 years met with an accident on 25.02.2011, when she was going to pick her daughter from her school. A tipper driven by respondent no.1 came from behind and hit the motorcycle of the deceased. Gurveer Kaur was a teacher in Doraha Public School, Doraha, District Ludhiana. Her monthly income was

stated to be Rs.15,000/-. The Tribunal relied upon Ex.A7 and noted that the pay scale was Rs. 6400 – 200 – 10640/- and the starting salary was Rs.6,400/- per month basic plus allowances. It noted that Gurveer Kaur had worked in the school only for ten days and 10 days' salary was disbursed to the husband after her death. The Tribunal rejected the letter to show that her salary was to be raised to Rs.15,000/- per month w.e.f. 01.04.2011. The income was taken as Rs.9,000/- per month and 1/3rd was deducted as personal expenses and the dependency was calculated at Rs.72,000/- per annum. Applying the multiplier of 17, the compensation was calculated at Rs.12,24,000/-. An addition of Rs.5,000/- was made for loss of consortium and a sum of Rs.5,000/- was added as funeral expenses, raising the total to Rs.12,34,000/-.

The submission on behalf of the appellants is that the school had advertised the post of P.G.T. Teacher in the month of January, 2011 and Gurveer Kaur had applied for the post and was given an appointment in February, 2011 and another letter was issued on 14.02.2011 and her salary would have been raised to Rs.15,000/- per month w.e.f. 1.04.2011 and that salary should have been taken to calculate. It was urged that the Court should have awarded some amount for future prospects and very little amount had been awarded for loss of consortium and funeral expenses and the multiplier of 18 should have been applied instead of 17. Reliance was placed upon ***Nisha and others Vs. Sita Devi and others PLR Vol.CLXXXV (2017-1) 408*** and ***Manjit Kaur and others Vs. Alla Dutta and others PLR Vol. CLXXXV-(2017-1) 152.***

On the other hand, the submission was that no amount towards future prospects could have been added and the matter was pending before a Larger Bench of the Apex Court. It was urged that the letter on the face of it appears to be procured with a view to raise the income. It was urged that in the appointment letter Ex.A7 it clearly states that the appointment was on probation for a year, which could be extended by another year and the starting salary was mentioned as Rs.6,400/- per month + basic allowances and there was no reason for the school to issue another letter in addition to say that the salary would be increased with a quantum jump to Rs.15,000/- after one and a half month. It was urged that the letter is given number '2-A', which shows that it has been procured subsequently.

The date of birth of Gurveer Kaur is available on the record and was 15.03.1985. The accident took place on 25.02.2011. Therefore, the multiplier of 18 would be applicable instead of 17. Gurveer Kaur had been appointed on probation basis for a year and her basic salary was Rs.6,400/- per month. The Tribunal added the allowances and the income was taken as Rs.9,000/- per month. Though there is no material to show how the amount was added to the basic salary. The Tribunal assumed the total income to be Rs.9,000/- per month on the basis of the salary paid for 12 days. The claimants were expected to bring some evidence to show the amount paid on other heads. I would allow only Rs.2,000/- for the miscellaneous heads, which would make the total income to be Rs.8,400/- per month. The deceased was a teacher. She was not self-employed nor she was on

minimum wages, therefore, an addition of 50% should have been made for future prospects. The issue before the Larger Bench is only with respect to those persons who are self-employed or were getting minimum wages. If an addition of 50% is made, the income would be Rs.12,600/- per month. After deducting 1/3 towards personal expenses, the amount available for the family would be Rs.8,400/- per month. The annual contribution would come to Rs.1,00,800/-. After applying the multiplier of 18, the compensation would come to Rs.18,14,400/-. To this, a sum of Rs.1 lac is added for loss of consortium, a sum of Rs.1 lac is added for loss of love and affection for the child, a sum of Rs.20,000/- is added for loss of estate (Rs.5,000/- already allowed by the Tribunal) and a sum of Rs.20,000/- is added for funeral expenses (Rs.5,000/- already allowed by the Tribunal). The total compensation thus payable would be Rs. 18,14,400 + 100000 + 100000 + 20000 + 20000 = Rs.20,54,400/-. The Tribunal had allowed Rs.12,34,000/-, which would be deducted and the amount would be paid after deducting income tax and in the same ratio to the claimants as ordered by the Tribunal and interest at the same rate from the date of filing of the appeal i.e. 24.10.2013 till realization. The amount of the minor would be deposited in the fixed deposit till the minor attains majority.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

February 21, 2017

sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No