IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 4661 of 2015 (O&M)
Date of Decision: December 11, 2017

Kanta Rani

..Appellant(s)

Versus

Harish Kumar and others

..Respondent(s)

with

FAO No. 5880 of 2014 (O&M)

Kanta Rani and another

..Appellant(s)

Versus

Harish Kumar and others

..Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Vikram Bali, Advocate
for the appellant(s).

Mr. Eklavya K. Darshi, Advocate
for respondent no.3-insurance company.

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ANITA CHAUDHRY, J.

Delay condoned.

These are two appeals against the award dated 30.08.2013, passed by the Motor Accident Claims Tribunal, Panchkula (here-in-after referred to as the Tribunal). Claimants are seeking enhancement of compensation. Since both the appeals arise out of the same accident and were disposed off by a common judgment, therefore, I propose to deal with them together.

Deep Chand was going from Surajpur to Mani Majra and was on the pillion of a motorcycle. Rajnish was going along with him. An accident occurred, which led to the death of Deep Chand and Rajnish. MACT Case No. 198 was filed by Kanta Rani widow of Deep Chand seeking compensation for the death of Rajnish while MACT case No. 199 was filed by Kanta Rani and his unmarried daughter seeking compensation for the death of Deep Chand.

In MACT Case No. 198, the Tribunal found that Rajnish was a student and was 18 years old and it took the notional income as Rs. 4,500/- per month and made a addition of 30% towards future prospects and arrived at the annual income of Rs.70,200/-. Thereafter 50% was deducted towards personal expenses and multiplier of 13 was applied taking the age of the claimant. A sum of Rs. 5,000/- was added for funeral expenses and total award of Rs.4,61,300/- was allowed.

In MACT Case No. 199, the Tribunal noted that Deep Chand was 46 years old and was working as a Head Guard with a private security services at Ludhiana. Though it was pleaded that he was getting salary of Rs.9,000/- per month but the Tribunal found that his pay slip showed that he was getting only Rs.3,742/- per month as salary but the Tribunal took the minimum wages which was Rs.4,000/- per month and gave an increase of 30% towards future prospects and deducted 1/3rd towards personal expenses and applied the multiplier of 13 to assess the compensation and total awarded Rs. 5,40,800/-.

ARGUMENTS

The submission made in FAO-4461-2015, which has been filed against the award passed in MACT case no. 198 of 02.06.2011 was that there should have been an increase of 50% towards future prospects and the age of the deceased should have been taken into account for applying the multiplier.

In the latest judgment rendered by Hon'ble Supreme Court in ***National Insurance Co. Ltd. Vs. Pranay Sethi*** in SLP (Civil) No.25590 of 2014, the issue regarding future prospects has been decided. The income of deceased was assessed at Rs.4,500/- per month, therefore, the addition would be 40% and not 50% and the income after addition of 40% would be Rs.6,300/- per month and making a deduction of 50%, the amount available would be Rs.3,150/- per month. The multiplier applicable would be 13 as the age of the claimant has to be taken into account in view of ***New India Assurance Company Ltd. Vs. Shanti Pathak and others 2007(3) RCR (Civil) 593 and Shakti Devi Vs. New India Insurance Co. Ltd. 2011 ACJ 15*** and the compensation would be Rs.3,150 x 12 x 13 = Rs.4,91,400/-. To this a sum of Rs.15,000/- should be added for funeral expenses and Rs.15,000/- for loss of estate, which makes the total of Rs.5,21,400/-. The balance amount would be payable with interest @ 6% from the date of filing of this appeal till realization.

The submission made in FAO-5880-2014, which has been filed against the award passed in MACT case no. 199 of 02.06.2011 was that the amount allowed on the miscellaneous heads and as per Pranay Sethi's case (supra), should be Rs.70,000/- and Rs.5,000/- has been allowed for funeral expenses and Rs.5,000/- for loss of consortium.

In Pranay Sethis's case (supra) rendered by five judges Bench an addition of Rs.10,000/- has to be made for funeral expenses and Rs.15,000/- has to be allowed for loss of estate and Rs.35,000/- should be allowed for loss of consortium. The total of this comes to Rs.60,000/-. This is the only increase which the appellants are entitled to. This amount would be paid by the insurance company with interest @ 6% from the date of filing of appeal till realization.

Both the appeals are partly allowed.

(ANITA CHAUDHRY)
JUDGE

December 11, 2017
sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No