

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.39 of 2016
Date of Decision: 18.09.2017

Pipanabika Mondal and othersappellants

Vs.

Jalour Singh and othersRespondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Deepak Aggarwal, Advocate, for the appellants.
Mr.Gopal Mittal, Advocate, for respondent No.3.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 30.09.2015, passed by the learned Motor Accident Claims Tribunal, Bathinda (for short, 'the Tribunal') vide which compensation to the tune of Rs.32 Lacs was awarded to the claimants on account of death of Rabindra Nath Mondal.

In this case, the question for consideration is whether after assessing compensation of Rs.42,54,449/- can be reduced to Rs.32 Lacs in case where the deceased was working as Sargent in the Indian Air Force and at the time of accident, he was 49 years of age and getting a salary of Rs.46,159 per month.

After going through the evidence and record, learned trial Court has assessed the income as under:-

Sr. No.	Heads calculation	Rs.
1.	Salary	Rs.5,53,908/- per annum

2.	Future prospect 30%	Rs.5,53,908/-+ Rs.1,66,172/- Rs.7,20,080 per annum
3.	Income after deduction of income tax	7,20,080-Rs.1,44,016=Rs.5,76,064/-
4.	Deduction 1/3 rd	Rs.5,76,064/- ---1,92,021= Rs.3,84,043/-
5.	Compensation multiplier of multiplier (8 + 5) after split	Rs.3,84,043 X8=Rs.30,72,344/- Rs.1,92,021 X 5= Rs.9,60,105/-
6.	Loss of consortium	Rs.1,00,000/-
7.	Funeral Expenses	Rs.25,000/-
8.	Loss of love and affection	Rs.50,000/-
9.	Loss of Estate	Rs.50,000/-
	Total compensation	Rs.42,54,449/-

The learned Tribunal had relied upon the judgment of **Poonam Paul and others vs. State of Utrakhand and Anr. Reported in 2012 ACJ, 688**, in this case, by taking the dependence of the claimants upon the earnings of the deceased, to be between Rs.30,000/- to Rs.35,000/- p.m and taking 30% as future prospects. Thus, it is held that since the deceased was in high income group, and scale down amount even less than that of the value of multiplier has fetched, to the tune of Rs.32 Lac. which has been awarded by the learned Tribunal to the claimants.

Learned counsel for the appellant has argued that the compensation awarded to the claimants is on the lower side and the aforesaid judgment is not applicable in the facts of the present case. As such, the present case may be allowed.

This Court of the opinion that as per **Poonam Paul case supra** deceased was working in a multinational company and at the time of his death, he was 27 years old and was earning Rs.4,82,293/-per annum and the deceased in the present case was serving in the Indian Air Force and he was

50 years old at the time of accident. Therefore, due to age differences, the income of the deceased-Rabindra Nath Mondal has not fallen in the category of higher income group and the judgment **Poonam Paul case supra** is not applicable in the present case.

In view of the above, the Award of the learned Tribunal dated 30.09.2015 is modified to the extent that respondent No.3-Insurance Company is held liable to pay the entire amount of compensation i.e. Rs.42,54,449/-. Therefore, respondent No.3/Insurance Company is directed to pay total amount of compensation i.e. Rs.42,54,449/-. If, the Insurance Company has paid the awarded amount to the claimants and remaining amount of compensation shall be paid with carry interest @ 9% per annum from the date of filing of the claim petition, till its realization, in view of the judgment of Hon'ble the Supreme Court in a case of **Kumari Kiran through her father Harinarayan vs. Sajjan Singh and others, 2015(1) SCC 539**. Remaining conditions of disbursal of amount shall remain unaltered. With the aforesaid modification in the impugned award, the appeal is allowed to the above extent.

(RITU BAHRI)
JUDGE

18.09.2017
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No