IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1530 of 1994 (O&M) &
XOBJC No.195-CII of 2014 (O&M)
Date of decision : 17.04.2018

Dinesh Kumar @ Pappu ...Appellant

Versus

Labh Kaur and others ...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Neeraj Khanna, Advocate for
Mr. Deepak Suri, Advocate for the appellant.

Mr. Ashok Jindal, Advocate
for respondent Nos.1 to 4/Cross-Objectors.

Mr. Vipul, Advocate for
Mr. Ravinder G. Arora, Advocate for respondent No.8.
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ANIL KSHETARPAL, J. (ORAL)

This judgment shall dispose of the appeal filed by the driver and cross-objections filed by the claimants. At the outset, it must be noticed that the owners of the vehicle had also filed an appeal being FAO No.1905 of 1994 which has been dismissed in default on 22.01.2015. There is no application for restoration. Be that as it may. In this case, accident took place on 28.03.1989. The driver was possessing the driving licence authorizing him to drive medium goods carrying vehicles. When he appeared in the witness-box, he specifically stated that he knows only Scooter driving. Whereas at the time of the accident, he was found to be driving a heavy goods carrying vehicle.

Although, by amendment w.e.f. 14.11.1994 in Section 10 of the Motor Vehicles Act, transport vehicles have been put in one category, however, in present case accident took much prior to the aforesaid amendment. Therefore, the amendment would not apply.

Hence, there is no force in the appeal filed by the driver.

The cross-objections have been filed by the claimants seeking enhancement. Gurdev Singh who was 44 years of age died in a motor vehicular accident. He was a School Teacher drawing a salary of ₹2,889/- while being employed in Hindu High School, Rama. Learned Court has applied a cut of 1/3rd on account of his own personal expenses. Sh. Gurdev Singh has left behind widow and two minor children and mother. Hence, there were five family members. Cut of 1/3rd on the income of the deceased was not justified. Still further, the Court has taken the salary as ₹2,350/- as stated in the claim petition. However, it was proved on file that the deceased was drawing a salary of ₹2,889/- per month. Learned Court has not awarded any amount for future prospects and conventional heads.

In view thereof, compensation is re-assessed under the following heads:-

HEADS	***COMPENSATION AWARDED BY MACT***	***COMPENSATION AWARDED BY HIGH COURT***
Salary taken	₹2,350/- p.m.	₹2,889/-
(+) Future prospects	NIL	+ 30% = ₹867/-
Total		₹3756/-
(-) Deduction	(-) 1/3rd = ₹782/-	(-) 1/4th = ₹939/-
Total	₹1566/-	₹2817/-
Annual Dependency	₹1566/- x 12 = ₹18,792/-	₹2817 x 12 = ₹33,804/-
Multiplier	₹18,792/- x 15 = ₹2,81,880/-	₹33,804/- x 15 =₹5,07,060/-
Conventional Heads		
Consortium	NIL	₹40,000/-
Loss of Estate	NIL	₹15,000/-
Funeral Expenses	NIL	₹15,000/-
Total	₹2,81,880/-	₹5,77,060/-

The enhanced amount i.e. ₹2,95,180/- shall attract interest at the rate of 7.5% p.a. from the date of accident till the date of payment.

In view of the above, the present appeal and cross-objections are disposed of.

17.04.2018 **(ANIL KSHETARPAL)**
Pawan **JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No