IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4236 of 2004 (O&M)
Date of decision : 24.08.2018

Meenu Arya and others

...Appellants

Versus

Narender Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. H.N. Sahu, Advocate for the appellants.

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ANIL KSHETARPAL, J. (ORAL)

Claimants-appellants are in the appeal against the award passed by the Motor Accident Claims Tribunal.

Munish Kumar, aged about 32 years died in an accident which took place in September, 2001.

Learned Motor Accident Claims Tribunal, after recording finding that the driver of the offending vehicle was rash and negligent, assessed the compensation at ₹2,95,600/- alongwith interest.

Learned counsel for the appellants pointed out that Motor Accident Claims Tribunal erred in considering carry home salary rather than total salary. The deceased was employed with Central Soil Salinity Research Institute, a Government of India Undertaking at Karnal. As per the salary slip produced, as Technician (Electrician), the total salary of the deceased was ₹6938/-, out of which conveyance allowance was ₹75/- which cannot be counted while assessing the dependency. Hence, total salary comes to ₹6863/-. The deceased has left behind a young widow and two minor children, one son and one daughter.

Learned Motor Accident Claims Tribunal has reduced the income by 1/3rd on account of personal expenses which does not require any interference.

As per judgment of the Constitution Bench in the case of ***National Insurance Company Vs. Pranay Sethi and others,*** **2017(10) SC 450,** the claimants shall be entitled to addition 50% of the income on account of future prospects. Still further, the appellants shall be entitled to a total amount of ₹70,000/- on account of conventional heads as per Hon'ble the Supreme Court judgment of Pranay Sethi (Supra).

Accordingly the compensation is re-worked as under:-

Heads	**Awarded by the Tribunal**	**Awarded by the High Court**
Income assessed	₹3,979/- per month	₹6,938/- per month
(+) future prospects	NIL	+ (50%) = ₹3469/-
	₹3,979/- per month	₹10,407/- per month
(-) Deduction (1/3rd)	(-)1/3rd (₹1326/-) = ₹2653/-	(-) 1/3rd (₹3469/-) = ₹6938/-
Annual Dependency	₹2653/- x 12 = ₹31,836/-	₹6938/- x 12 = ₹83,256/-
Multiplier	M=17, ₹31,836/- x 17 = ₹5,41,212/-	M=16, ₹83,256/- x 16 = ₹13,32,096/-
Conventional Heads		
Loss of Consortium	NIL	₹40,000/-
Loss of estate	NIL	₹15,000/-
Funeral Expenses	₹10,000/-	₹15,000/-
Total	₹5,51,212/-	₹14,02,096/-
Enhanced Compensation = Compensation awarded by High Court (-) Compensation awarded by MACT	₹8,50,884/- {₹14,02,096/- (-) ₹5,51,212/-}	

In view of the above, the present appeal is allowed.

The total enhanced amount of compensation i.e. ₹8,50,884/- as worked out in table above shall be payable alongwith interest at the rate of 7.5% p.a. from the date of the accident till the date of realisation.

24.08.2018 **(ANIL KSHETARPAL)**
Pawan **JUDGE**

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**