IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1157 of 2007 (O&M)
Date of decision:14.09.2018.

Sunita Rani and others

...Appellants

Versus

Kala and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. R.K. Dhiman, Advocate for the appellants.

Service of respondents No.1 and 2 dispensed with vide order dated 02.04.2018.

Mr. Neeraj Khanna, Advocate for respondent No.3/Insurance Company.

LISA GILL, J.

This appeal has been filed by the claimants seeking enhancement of the compensation awarded to them by Motor Accident Claims Tribunal, Yamunanagar (`Tribunal' for short) vide award dated 17.02.2006 on account of death of Rajinder Kumar in a motor vehicle accident.

The claimants, who are the widow, children and parents of the deceased, filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of the death of Rajinder Kumar in a motor vehicle accident which took place on 07.12.2002. FIR qua the accident was registered against respondent No.1 at Police Station City, Yamunanagar. It was averred that the deceased at the time of his death was working as a Sweeper in Municipal Committee, Yamunanagar. His monthly income was

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stated to be Rs.5218/-. Claimants were fully dependent upon the deceased. Compensation was thus prayed for.

The learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place due to the rash and negligent driving of the offending vehicle by respondent No.1. There is no dispute regarding the above said finding of the learned Tribunal on this issue, which has attained finality. The learned Tribunal assessed the income of the deceased as Rs.4500/- per month. Deduction of 1/3rd was effected towards the personal expenses. After applying a multiplier of 13, total dependency was assessed at Rs.04,68,000/-. Another sum of Rs.7000/- was awarded for the loss of consortium and funeral expenses. Thus, claimants were held entitled for total compensation of Rs.4,75,000/- along with interest @ 7.5% per annum from the date of filing of claim petition till realisation.

Learned counsel for the appellants argues that compensation awarded to the appellants needs to be enhanced. Income of the deceased has wrongly been taken as Rs.4500/- as certain deductions from the salary like GPF etc. was not included. As per the certificate Ex.P1, last drawn salary of the deceased, who working as a Sweeper in Municipal Committee, Yamunanagar, was Rs.5218/-. No increase in income on account of future prospects has been afforded to the claimants. Multiplier of 13 has wrongly been applied. Compensation under conventional heads should be awarded as Rs.70,000/- instead of Rs.7000/-. It is thus prayed that the awarded compensation be enhanced.

Learned counsel for the Insurance Company has refuted the above said arguments while submitting that the impugned award has correctly been passed and no ground for any enhancement is made out.

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I have heard learned counsel for the parties and have gone through the record with their able assistance.

As per Ex.P1, the deceased who was working as a Sweeper with Municipal Committee, Yamunanagar was getting salary of Rs.5218/- per month. Deduction from the salary of the deceased on account of GPF etc. is required to be included in the income assessed and cannot be excluded. Therefore, income of the deceased is assessed as Rs.5218/- instead of Rs.4500/- per month. In view of the guidelines laid down by the Hon'ble Supreme Court in National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009, 50% increase in income has to be afforded on account of future prospects. Keeping in view the number of dependents i.e. six, deduction of 1/4th instead of 1/3rd should be effected. As per the judgment of the Hon'ble Supreme Court passed in Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, *2009(3) RCR (Civil) 77,* multiplier of 15 instead of 13 should be applied as the age of the deceased was 36/37 years at the time of the accident. Claimants are entitled to Rs.15,000/- each for loss of estate and funeral expenses besides Rs.40,000/- to the claimant widow for loss of consortium.

Appellants-claimants are, thus, entitled to compensation, which is re-worked as under:-

Sr.No.	***Heads of Claim***	
1.	Income	5218/- p.m. i.e., 62,616/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	62,616+31308 (62616x50%) = 93924/-
3.	Income after deduction of 1/4th on account of personal expenses	93924–23481 (93924/1/4th) = 70443/-

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4.	Total dependency after applying a multiplier of 15	(70443 **x**15) =10,56,645/-
5.	Loss of estate	15,000/-
6.	Loss of consortium to wife	40,000/-
7.	Loss of funeral	15,000/-
Grand Total		11,26,645/-

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above. Appellants shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants shall enure.

With the abovesaid modification in the award dated 17.02.2006, present appeal is disposed of.

(LISA GILL)
JUDGE

September 14, 2018
Ishwar

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No

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