

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

562

FAO-2886-2006 (O&M)
Date of Decision : 27.09.2018

Smt. Chamelli Devi and others

..... Appellants

Versus

Gopal Krishan and others

.... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr. Naren Pratap Singh, Advocate
for Mr. Y.S. Turka, Advocate
for the appellants.

None for respondent No.1.

Mr. Rajnish Malhotra, Advocate
for the respondent No.2.

Service upon respondent No.3 is dispensed with.

AJAY TEWARI, J. (ORAL)

This appeal has been filed for enhancement of compensation and for modifying the award dated 02.05.2005 passed by the Tribunal awarding compensation of Rs.3,32,200/- alongwith interest @ 9% p.a. on account of death of Jagdeep Singh @ Kaka in a motor accident.

Since very limited issue has been raised detailed reference to the facts is not required.

Counsel for the appellants has argued that the Tribunal erred

while taking the income @ Rs.2400/- p.m. which is highly inadequate

because once it was shown that the deceased was running a dairy farm, his income should be taken as of skilled labourer.

I agree with this argument. As per the Minimum Wages Act of the relevant time, the income of the skilled labourer should be Rs.2500/- p.m. Consequently, I hold that the income of the deceased be taken as Rs.2500/- p.m.

Counsel for the appellants has further argued that as per the Constitution Bench judgment of the Supreme Court in *National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009* future prospects of 40% has to be granted.

Counsel for the respondent No.2 has very fairly accepted this argument.

Consequently, I grant future prospects of 40%

Counsel for the appellants has further argued that that as per the judgment of the Supreme Court in *Sarla Verma and others v. Delhi Transport Corporation and another, 2009 ACJ 1298*, the multiplier of 18 has to be applied instead of 16.

Counsel for the respondent No.2 is not in a position to deny this fact.

Consequently, I hold that multiplier of 18 has to be applied.

Counsel for the respondent No.2 has pointed out that the deduction should be 1/2 instead of 1/3rd.

Counsel for the appellants has accepted this fact.

Consequently, I hold that deduction of 1/2 should be applied.

Counsel for the appellants has further argued that as per

Pranay Sethi's case (supra) and as per another judgment of the Supreme Court in *Magma General Insurance Company Ltd., Vs. Nanu Ram @ Chuhru Ram & ors., Civil Appeal No.9581 of 2018 arising out of SLP (Civil) No.3192 of 2018, decided on 18.09.2018* wherein the concept of consortium has been expanded after considering Pranay Sethi's case (supra), an amount of Rs.85,000/- more has to be awarded under the conventional heads.

Counsel for the respondent No.2 is not in a position to deny this fact.

Consequently, I award Rs.85,000/- more under the conventional heads.

Counsel for the appellants has further argued that as per the judgment of the Supreme Court in Magma General Insurance Company Ltd's case (supra), the interest should be 12% p.a. instead of 9%.

Counsel for the respondent No.2 is not in a position to deny this fact.

Consequently, it is held that the total compensation amount would carry interest @ 12% p.a. from the date of filing of the claim petition till the date of realization. Apart from the individual amounts, out of the enhanced amount 10% would be the share of the appellant No.1 and the remaining 90% would go to the share of respondent No.3-widow.

Appeal stands disposed of and the award is modified accordingly.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

September 27, 2018
ashish

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No