IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3164 of 2005 (O&M)
Date of decision:13.08.2018.

Smt. Bindu Khurana and others

...Appellants

Versus

Mohmad Chand and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Ashit Malik, Advocate for the appellants.

Mr. Punit Jain, Advocate for respondent No.4.

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LISA GILL, J.

This appeal has been filed by the claimants seeking enhancement of the compensation awarded to them by Motor Accident Claims Tribunal, Kurukshetra (`Tribunal' for short) vide award dated 01.04.2005 on account of death of Ravish Khurana in a motor vehicle accident on 21.07.2003.

The claimants, who are the widow and children of the deceased, filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of the death of Ravish Khurana in a motor vehicle accident which took place on 21.07.2003. FIR No.241 dated 21.07.2003 was registered against respondent No.1 under Section 279,304-A,337,338 and 427 IPC at Police Station Kotwali Dehat, District Saharanpur. 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 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. Age of the deceased was 45 years at the time of his death. He was employed as Senior Auditor in Local Audit Department, Haryana, earning Rs.13,000/- per month. Deceased was having a valid driving licence at the time of accident. Claimants were fully dependent upon the deceased.

Learned Tribunal has held that the age of the deceased was in between 44-45 years at the time of his death which was proved from the official record as well as matriculation certificate. Learned Tribunal has further held that the deceased was employed as Senior Auditor in Local Audit Department, Haryana and on the basis of the salary certificate (Ex.P2), produced by PW3 Subhash Chhokra concluded that the deceased was receiving a salary of Rs.12780/- per month. Deduction of 1/3rd was applied. After applying a multiplier of 13, total dependency was assessed at Rs.13,29,120/-. Another sum of Rs.10,000/- was awarded towards transportation and last rites. Thus, claimants were held entitled for total compensation of Rs.13,39,120/- along with interest @ 9% per annum. Respondents No.1, 3 and 4 were jointly and severally held liable to pay the amount of compensation to the claimants.

Learned counsel for the appellants argues that compensation awarded to the appellants needs to be enhanced. Multiplier of 14 instead of 13 has to be applied. No increase on account of future prospects has been afforded, though it is not in dispute that the deceased was a Government employee. It is thus prayed that this appeal be allowed.

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 is made out for enhancement of the compensation awarded. It is thus prayed that this appeal be dismissed.

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

Age of the deceased i.e. 45 years is not in dispute. Income has been correctly assessed at Rs.12780/- 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, 30% increase has to be afforded on account of future prospects. 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.

Deduction of 1/3rd on account of personal expenses was justified. However, multiplier of 14 instead of 13 has to be applied (age of deceased being 45 years at the time of accident) in view of Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, *2009(3) RCR (Civil) 77*. Appellants-claimants are, thus, entitled to compensation which is re-worked as under:-

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	12,780/- p.m. i.e. 1,53,360/- per annum
2.	Total income after addition at the rate of 30% on account of future prospects	1,53,360**+**(1,53,360 **x 3**0%) = 1,99,368/-
3.	Income after deduction of 1/3rd on account of personal expenses	1,99,368**–**(1,99,368**/**1/3rd) = 1,32,912/-
4.	Total dependency after applying a multiplier of 14	(1,32,912**x**14) =18,60,768/-
5.	Loss of estate	15,000/-
6.	Loss of consortium to wife	40,000/-

7.	Loss of funeral	15,000/-
Grand Total		Rs.19,30,768/-

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 01.04.2005, present appeal is disposed of.

(LISA GILL)
JUDGE

August 13, 2018
Ishwar

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No