IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1019 of 2011 (O&M)
Date of decision: 30.04.2018

Jatinder Kaur and another .... Appellants

Versus

Kashmir Singh and others ..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Lalit Kumar Sharma, Advocate for
Mr.Sunil Kumar Sharma, Advocate
for the appellants.

Mr. Abhishek Goyal, Advocate for
Mr. Pardeep Goyal, Advocate
for respondent No.3-Insurance Company,

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Avneesh Jhingan, J.

The present appeal has been filed for enhancement of compensation awarded by Motor Accidents Claims Tribunal, Amritsar (hereinafter referred to as the 'Tribunal') vide award dated 01.02.2010.

An accident took place on 31.01.2008. Karandeep Singh, aged 25 years, was going from Amritsar to Jammu in a Maruti Car bearing registration No.PB-02AF-8288. On reaching near Kadial Colony Dhariwal, District Gurdaspur, the car was struck by a rashly and negligently driven truck bearing registration No.PB-02AV-8762 (for short, 'the offending vehicle'). As a result of the accident, Karandeep Singh suffered multiple injuries. He was taken to Civil Hospital, Batala. From there he was referred to Guru Nanak Dev Hospital, Amritsar but he was taken to Escort

Hospital, Amritsar. He succumbed to the injuries. FIR No.9 dated 31.01.2008 was registered at Police Station Batala.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed by the parents of the deceased. The Tribunal held that the accident occurred due to rash and negligent driving of the offending vehicle. The age of the deceased was proved as 25 years. He was a bachelor. His salary was proved vide Ex.A2 as Rs.9022/- per month. The Tribunal applied multiplier considering the age of the parents and awarded a sum of Rs.5,00,000/- along with interest @ 6% per annum. The amount awarded included a sum of Rs.5,000/- for funeral expenses.

With able assistance of the counsel, I have perused the paper-book and record.

Learned counsel for the appellants argued that the Tribunal erred in making deduction of Rs.1500/- per month from salary. He contended that the multiplier should have been applied considering the age of the deceased. His grievance is that no future prospects have been added and the amounts awarded under the conventional heads are on the lower side.

Learned counsel for the insurer defended the award.

The Tribunal erred in making the deductions from the proved salary of the deceased. From the perusal of the record, it is evident that the deductions were with regard to contribution to GPF etc., the said amount forms part of salary and cannot be deducted. Reliance is placed on decision of Supreme Court in case of ***Manasvi Jain vs. Delhi Transport***

<u>Corporation, 2014(3) SCC 22</u> wherein it has been held as under :-

> "*12. This Court in **<u>Shyamwati Sharma & Ors. Vs. Karam Singh & Ors., 2010(3) R.C.R. (Civil) 741 : (2010) 12 SCC 378</u>**, while considering the issues of deduction of taxes, contributions etc., for arriving at the figure of net monthly income, held that "while ascertaining the income of the deceased, any deductions shown in the salary certificate as deductions towards GPF, life insurance premium, repayments of loans etc., should not be excluded from the income. The deduction towards income tax/surcharge alone should be considered to arrive at the net income of the deceased."*

In such circumstances, the compensation would be calculated taking into consideration the monthly salary of the deceased as Rs.9,000/-. He was employed on a fixed salary in Guru Nanak Dev University, Amritsar, as a Clerk-cum-Junior Data Entry Operator. In consonance with the decisions of the Supreme Court in ***<u>National Insurance Company Ltd. vs. Pranay Sethi and Ors., 2017 AIR (SC) 5157</u>*** and ***<u>Hem Raj vs. Oriental Insurance Company Ltd. in Civil Appeal No.19603 of 2017, decided on 22.11.2017,</u>*** 40% future prospects are to be added.

He was a bachelor, hence, one half deduction for self expenses has rightly been made.

The issue is that whether the age of the deceased or the age of parents is to be considered for applying the multiplier? Supreme Court in cases of ***Shri Nagar Mal Vs. Oriental Insurance Company Ltd., Civil Appeal No. 448 of 2018, decided on 19.01.2018*** and ***Sube Singh and another Vs. Shyam Singh (Dead) and others, Civil Appeal No. 7176 of 2015 decided on 09.02.2018***, considering the decisions of ***Smt. Sarla Verma and Pranay Sethi's cases (supra)*** has held that multiplier is to be applied, keeping in view the age of the deceased. Deceased was 25 years at the time of accident and multiplier of 18 is to be applied.

As per ***Pranay Sethi's case (supra)***, the claimants are entitled to Rs.15,000/- each for funeral expenses and loss of estate.

The compensation is recalculated as under :-

Monthly income	Rs.9,000/-
Annual income	Rs.1,08,000/-
1/2 deduction for self expenses	Rs.54,000/-
Dependency	Rs.54,000/-
40% future prospects	Rs.21,600/-
Total	Rs.75,600/-
Applying multiplier of 18	Rs.13,60,800/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-
Total	Rs.13,90,800/-

The award dated 01.02.2010 is modified to the extent that the amount awarded of Rs.5,00,000/- is enhanced to Rs.13,90,800/-.

The claimants would be entitled to enhanced amount along with interest @ 6% per annum from the date of filing of the present appeal till the realisation of the amount. The delay in filing the appeal was condoned vide order dated 21.05.2013 and it was ordered that the appellant would not be entitled to interest on the enhanced amount from the date of the award till the filing of the appeal.

The appeal is party allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

30.04.2018
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1.Whether the order is speaking/reasoned: Yes

2.Whether the order is reportable : Yes