IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.1952 of 2013 (O&M)
Date of decision: 06.08.2018.

Smt. Bhartho

...Appellant

Versus

Paramjeet and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Pankaj Middha, Advocate for the appellant.

Respondents No.1 and 2 ex parte.

Ms. Monika Jangra, Advocate for
Ms. Vandana Malhotra, Advocate for respondent No.3.

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<u>LISA GILL, J.</u>

This appeal has been filed by the claimant seeking enhancement of the compensation awarded to her by Motor Accident Claims Tribunal, Jind (`Tribunal' for short) in award dated 04.01.2013 on account of death of her son Amarphool in a motor vehicle accident on 19.11.2011.

The claimant, who is the mother of the deceased, filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of the death of her son Amarphool in a motor vehicle accident which took place on 19.11.2011. FIR No.780 dated 21.11.2011 was registered against respondent No.1 under Section 279 and 304-A IPC at Police Station City Jind. 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. Said finding of the Tribunal has attained finality.

The deceased was unmarried and 26 years old at that time. Learned Tribunal, in the absence of any documentary evidence, held that the income of the deceased cannot be assessed as more than that of a casual workman i.e. about Rs.200/- per day, Rs.6000/- per month at the time of his death. Deduction of 50% was effected on account of personal expenses as the deceased was unmarried. Multiplier of 10 was applied keeping in view the age of the mother of the deceased. Total dependency was thus worked out as Rs.3,60,000/-. A sum of Rs.20,000/- was awarded to the claimant on account of loss of love and affection. A sum of Rs.10,000/- was also awarded towards transportation. Thus, total compensation of Rs.3,90,000/- with interest at the rate of 9% per annum from the date of the institution of the petition till final realization thereof was awarded.

Learned counsel for the appellant seeks enhancement on the ground that income of the deceased has wrongly been assessed at Rs.6000/- per month i.e. wages of a casual workman whereas the deceased was earning Rs.20,000/- per month as he was an agriculture equipment engineer besides an agriculturist. This fact has been duly corroborated by the categoric statement of the mother of the deceased. It is contended that the learned Tribunal has further erred in applying a multiplier of 10 with reference to the age of the mother of the deceased whereas multiplier of 18 should have been applied as the deceased was 26 years old at the time of the accident. Learned Tribunal has not afforded increase in income on account of further prospects. Interest awarded at the rate of 9% is on the lower side whereas it should have been 12% per annum. It is, thus, prayed that the compensation awarded be enhanced.

Learned counsel for the Insurance Company while refuting the above facts, submits that learned Tribunal has rightly assessed the income of the deceased as Rs.6000/- per month because there is no documentary evidence on record to show the employment and income of the deceased.

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

There is no dispute that deceased lost his life in a motor vehicle accident due to the rash and negligent driving of the offending vehicle by respondent No.1. The said finding of the learned Tribunal on this issue has attained finality. It is also not disputed that the deceased was unmarried and 26 years old at the time of his death. There is no doubt that except the bald statement of the claimant as PW3, there is nothing on record to prove that the deceased was an agricultural equipments engineer besides an agriculturist. No document to this effect has been produced on record. There is no certificate or document to reflect the educational qualification of the deceased. Learned Tribunal in the facts and circumstances of the case has rightly assessed the income of the deceased as Rs.6000/- per month.

Learned Tribunal has further erred in applying a multiplier of 10 keeping in view the age of the mother of the deceased (26) whereas the multiplier of 17 has to be applied keeping in view the age of the deceased at the time of his death. As per the guidelines laid down by the Hon'ble Supreme Court in **Munna Lal Jain Vs. Vipin Kumar Sharma, 2015 (6) SCC 347,** multiplier has to be applied with reference to the age of the deceased and not with reference to the age of the parents. Therefore, multiplier of 17 instead of 10 has to be applied in this case.

In terms of the judgment of the Hon'ble Supreme Court in **<u>National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1099,</u>** increase in income due to future prospects at the rate of 40% should also be afforded. Thus, compensation on account of loss of future prospects at the rate of 40% (Rs.2400/-) is afforded in view of the age of the deceased (26 years), which takes the income of the deceased to Rs.8400/-. Deduction of 50% has rightly been effected on account of personal expenses as the deceased was unmarried, thereby rendering income of the deceased to be Rs.4200/- (8400-4200). Multiplier of 17 instead of 10 has to be applied keeping in view the age of the deceased. Therefore, annual dependency of the claimant is assessed as Rs.8,56,800/- (Rs.4200x17x12). The claimant is also entitled to Rs.15,000/- each for loss of estate and funeral expenses.

In view of the above, the compensation, to which appellant/claimant is entitled to, is reworked as under: -

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	6000 p.m. i.e.Rs.72,000/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	72,000 **+** (72,000 **x** 40%) = 1,00,800
3.	Income after deduction of 50% on account of personal expenses	1,00,800 **–** 50400/- = 50,400
4.	Total dependency after applying a multiplier of 17	(50,400 **x** 17) = 8,56,800/-
5.	Loss of estate	15,000/-
6.	Funeral expenses	15,000/-
	Grand Total	Rs.08,86,800/-

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.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

(LISA GILL)
JUDGE

August 06, 2018
Ishwar

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No