

F.A.O.No.1014 of 2015 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

F.A.O.No.1014 of 2015 (O&M)

Date of Decision: January 11, 2018

Sube Singh & another

...Appellants

Versus

Sandeep Dabas & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.Atul Yadav, Advocate,
for the appellants.

Mr.Punit Jain, Advocate,
for respondent No.3.

AMIT RAWAL, J. (Oral)

CM No.2785-CII of 2015

The appeal is accompanied by a separate application under Order 41 Rule 27 CPC seeking permission of this Court to place on record disability certificate, Annexure A-1, of the father to prove that he had also disability to the extent of 85%.

I have gone through the certificate Annexure A-1. The certificate is dated 30.3.2011, whereas the award was pronounced on 1.11.2014. Now by way of the present application, the appellants want to bring on record the evidence with regard to the disability. Even otherwise, no pleadings or any evidence has been brought on record to establish that both the mother and father of the deceased are living separately or having any matrimonial discord. The compensation assessed is on account of the factors, i.e., age and income of the deceased and the amount of

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compensation can always be shared amongst the husband and the wife. In view of such fact, I do not deem it appropriate to seek record of the Motor Accident Claims Tribunal with regard to the genuineness and authenticity of the certificate to bring on record the same by way of additional evidence.

Application stands dismissed.

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The present appeal has been preferred by the L.Rs of Harish Yadav, who died in a motor accident occurred on 7.12.2013, for enhancement of compensation against the award dated 1.11.2014 passed by the Motor Accident Claims Tribunal, Gurgaon, whereby a compensation of ₹3,84,000/- along with interest @ 7.5% per annum from the date of filing of the petition till actual realisation, has been awarded.

Mr.Atul Yadav, learned counsel appearing on behalf of the appellant submits that the Tribunal has awarded the compensation to the tune of ₹3,84,000/-, which is on lower side. Moreover, no incase was made in the salary towards future prospects and the amount of ₹20,000/- towards loss of estate, ₹20,000/- on account of funeral expenses and ₹20,000/- towards non-pecuniary damages are also too meager, thus, there is scope of enhancement.

On the other hand, Mr.Punit Jain, learned counsel for respondent No.3 submits that the Tribunal has taken care of all the heads sufficiently and there is no scope for further enhancement, thus, urges this Court for dismissal of the appeal.

I have heard the learned counsel for the parties, appraised the paper book and of the view that there is a scope of enhancement as the compensation to the tune of ₹3,84,000/- is on lower side and accordingly, I

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take the income of the deceased as ₹5,000/- per month instead of ₹3,000/- as taken by the Tribunal and provide 40% future prospects and apply a multiplier of 18, much less deduction of ½ to assess the loss of dependency as 7,56,000/-.

Since it is a case of bachelor, in my view, the amount of conventional heads is liable to be reduced by exercising power under Order 41 Rule 33 CPC in view of the objection taken by the learned counsel for the Insurance Company. The aforementioned view of mine is derived from the ratio decidendi culled out by the Hon'ble Supreme Court in **SLP (Civil) No.25590 of 2014** titled as **National Insurance Company Ltd. Versus Pranay Sethi and others.** Resultantly, the amount of conventional heads is reduced to ₹30,000/-.

In all, the compensation payable shall be ₹7,86,000/-. The amount in excess over what has already been provided by the Tribunal shall also attract interest @ 6% per annum from the date of filing of the appeal till its realization. The liability shall remain the same as has already been determined by the Tribunal.

The award passed by the Tribunal is modified to the above extent and the appeal stands allowed.

January 11, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No