IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.174 of 2015 (O&M)
Date of decision:28.08.2018.

Smt. Santosh

...Appellant

Versus

Sushil Kumar and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Kunal Dawar, Advocate for the appellant.

Respondents No.1 to 3 proceeded ex parte vide order dated 29.08.2018

Ms. Madhu Sharma, Advocate for respondent No.4/Insurance Company.

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LISA GILL, J.

This appeal has been filed by the claimant seeking enhancement of the compensation awarded to her by Motor Accident Claims Tribunal, Faridabad (`Tribunal' for short) vide award dated 03.10.2013 on account of death of her husband Kailash Chand due to the injuries sustained by him in a motor vehicle accident on 05.09.2010.

The claimant, who is the widow of the deceased, filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of the death of her husband Kailash Chand due to the injuries suffered by him in a motor vehicle accident, which took place on 05.09.2010. FIR No.491 dated 07.09.2010 under Sections 279, 337 and 304-A IPC was registered against respondent No.1 at Police Station City Ballabgarh. It was averred that Kailash Chand was 45 years old at the time of his death. Deceased was running a shop, earning Rs.15,000/- per month. Claimant was fully dependent upon the deceased. Compensation was thus prayed for. 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.

Learned Tribunal concluded that the age of the deceased was 45 years old at the time of his death. As there was no documentary evidence adduced by the claimant showing the exact earning of the deceased, therefore, considering the deceased as a labourer, his income was taken as Rs.4500/- per month i.e. Rs.54,000/- per annum. Deduction of 50% was effected towards the personal expenses. Thus, the loss of dependency was assessed as Rs.27,000/- per annum. After applying a multiplier of 14, total dependency was assessed at Rs.3,78,000/-. Another sum of Rs.5,000/- was awarded towards funeral expenses. A sum of Rs.25,000/- was also awarded for the loss of consortium. The claimant was also held entitled to Rs.2595/- for medical expenses on the basis of medical bills produced. Thus, claimant was held entitled for total compensation of Rs.4,10,595/- along with interest @ 7.5% per annum from the date of filing of claim petition till realisation.

Learned counsel for the appellants argues that compensation awarded to the appellant needs to be enhanced. No increase on account of future prospects has been afforded. Deduction of 50% has wrongly been effected towards personal expenses. However, income assessed of the deceased is not disputed. It is thus prayed that this appeal be allowed and compensation awarded be enhanced.

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 for any enhancement is made out.

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 assessed at Rs.4500/- is also not in dispute. Sole argument raised by learned counsel for the appellants is that 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**, 25% increase in income has to be afforded on account of future prospects. Deduction of 50% towards personal expenses has rightly been effected. Multiplier of 14 has rightly been applied. Claimants are entitled to Rs.15,000/- each for loss of estate and funeral expenses instead of Rs.5,000/- towards funeral expenses and last rites besides Rs.40,000/- instead of Rs.25,000/- to the claimant widow for loss of consortium. A sum of Rs.2595/- has rightly been awarded for medical expenses.

Appellant-claimant is, thus, entitled to compensation, which is re-worked as under:-

Sr.No.	***Heads of Claim***	
1.	Income	4500 p.m. i.e., 54000/- per annum
2.	Total income after addition at the rate of 25% on account of future prospects	54000+13500 (54000x25%) = 67500/-
3.	Income after deduction of 50% on account of personal expenses	67500–33750 (67500/50%) =33750/-
4.	Total dependency after applying a multiplier of 14	(33750 **x**14) =4,72,500/-

5.	Loss of estate	15,000/-
6.	Loss of consortium to wife	40,000/-
7.	Loss of funeral	15,000/-
8.	Medical expenses	2595/-
Grand Total		5,45,095/-

The amount of compensation already awarded to the appellant, needless to say, shall stand deducted from the amount calculated as above. Appellant 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 award dated 03.10.2013, present appeal is disposed of.

(LISA GILL)
JUDGE

August 28, 2018
Ishwar

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No