

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.1145 of 2016 (O&M)

Date of decision:12.11.2018.

Paramjit Kaur

...Appellant

Versus

Pavitar Singh and another

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Surinder Garg, Advocate for the appellant.

Mr. A.S. Sekhon, Advocate for respondent No.1.

Mr. Jatinder Pal Singh, Advocate for respondent No.2.

LISA GILL, J.

This appeal has been filed by the claimant seeking enhancement of the compensation awarded to her by the learned Motor Accident Claims Tribunal, Faridkot ('Tribunal' for short) vide award dated 12.08.2015 on account of death of her husband Pritpal Singh in a motor vehicle accident on 29.09.2014.

The claimant, who is wife of the deceased, filed a petition under Section 166 of the Motor Vehicles Act, seeking compensation on account of death of her husband Pritpal Singh due to injuries received in a motor vehicle accident which took place on 29.09.2014. FIR No.70 dated 30.09.2014 was registered under Sections 279, 304-A and 427 IPC at Police Station Sadiq against respondent No.1. It was pleaded that the deceased at the time of his death was doing the business of property dealing while cultivating land on lease (Theka) as well. Besides the same, he was also running a dairy farm. His monthly income from all sources was claimed to be Rs.60,000/- per month. He was 50 years old at the time of accident. 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 the offending vehicle by its driver. There is no dispute regarding the above said finding of the learned Tribunal on this issue, which has attained finality.

Learned Tribunal further concluded the deceased to be 50 years old at the time of his death and assessed his income as Rs.6000/- per month. Deduction of 1/2nd was effected towards personal expenses. Multiplier of 14 was applied. Thus, total dependency was assessed at Rs.5,04,000/- (36,000x14). A sum of Rs.1,00,000/- was awarded towards loss of consortium. Another sum of Rs.25,000/- was awarded towards funeral expenses. Thus, claimant was held entitled to a total compensation of Rs.6,29,000/-, which is rounded off to Rs.6,30,000/- along with interest @ 6% per annum from the date of filing of claim petition till realisation.

Learned counsel for the appellant submits that the learned Tribunal has erred in assessing the income of the deceased as Rs.6000/- whereas, even the minimum wage of an unskilled labourer in the State of Punjab at the time of accident was about Rs.6648/-. Moreover, no increment has been afforded on account of future prospects. However, learned counsel for the appellant further submits that compensation awarded under conventional heads may be reworked in terms of the judgments of Hon'ble the Supreme Court in National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009 and Magma General Insurance Company Ltd. Vs. Nanu Ram alias Chuhru Ram and others, in Civil Appeal No.9581 of 2018 decided on 18.09.2018. It is thus prayed that this appeal be allowed and compensation awarded be enhanced.

Learned counsel for respondent No.1 has refuted the above said arguments while submitting that the impugned award has been passed correctly and no ground for any enhancement is made out.

Learned counsel for respondent No.2 submits that he has unnecessarily been impleaded in this case as the learned Tribunal has rightly concluded that respondent No.2 was not even the owner of the offending vehicle in question. Respondent No.1 categorically admitted himself to be the owner of the offending vehicle in question as reflected in his statement recorded before the learned Tribunal on 12.05.2015. It is a matter of record that there is no challenge of the abovesaid finding either by the appellant or by respondent No.1.

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

It is not in dispute that Pritpal Singh died due to injuries received in a motor vehicle accident which took place on 29.09.2014 due to the rash and negligent driving of the offending vehicle by respondent No.1. It is further not disputed that the minimum wage of an unskilled labourer at the time of accident i.e. on 29.09.2014 was about Rs.6648/-. In this view of the matter, learned Tribunal has indeed erred in assessing the income of the deceased to be Rs.6000/- per month. It is considered just and expedient to assess the income of the deceased as Rs.6648/- instead of Rs.6000/-. In view of the judgment of Hon'ble the Supreme Court in the case of Pranay Sethi and others (supra), 10% increase in income has to be afforded on account of future prospects as the deceased was admittedly 50 years old at the time of accident. Deduction of 50% towards personal expenses has rightly been effected. Multiplier of 14 has rightly been applied keeping in view the age of the deceased. In view of the judgment of Hon'ble the Supreme Court in the

case of Magma General Insurance Company Ltd. (supra), Rs.40,000/- instead of Rs.1,00,000/- has to be afforded towards loss of consortium. The claimant is entitled to Rs.15,000/- each for loss of estate and funeral expenses instead of Rs. 25,000/- afforded by the learned Tribunal towards funeral expenses.

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

Sr.No.	Heads of Claim	Rupees
1.	Income	6648 p.m. i.e., 79,776/- per annum
2.	Total income after addition at the rate of 10% on account of future prospects	79,776+7977 (79,776x10%) = 87,753/-
3.	Income after deduction of 50% on account of personal expenses	87,753–43,876 (87,753/2) = 43,876/-
4.	Total dependency after applying a multiplier of 14	(43,876 x14) =6,14,264/-
5.	Loss of estate	15,000/-
6.	Funeral expenses	15,000/-
7.	Loss of consortium	40,000/-
Grand Total		6,84,264/-

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 entire amount from the date of filing of the petition till realization.

With the abovesaid modification in the award dated 12.08.2015, present appeal is disposed of.

(LISA GILL)
JUDGE

12.11.2018
Ishwar

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No