IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

216 | **FAO-379-2014 (O&M)**
Date of Decision : 14.9.2018

Jaswinder and another ....Appellants

vs.

Pooran Singh and others ....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr.D.K.Prajapati, Advocate for
Mr. Anil Kumar Spehia, Advocate
for the appellants.

Mr. Ram Avtar, Advocate for
Mr. Ram Chander, Advocate
for respondent No.3.

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AJAY TEWARI, J. (Oral)

This appeal has been filed against the award dated 16.9.2013 passed under Motor Accident Claims Tribunal, Jalandhar awarding compensation of Rs. 5,70,000/- alongwith interest at the rate of 7% per annum on account of death of Inder Paul Singh in an accident.

Since limited points have been urged detailed reference to the facts is not required.

Counsel for the appellants argues that in view of the Constitution Bench judgment of the Supreme Court in the matter of ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009*** 40% future prospects have to be granted. Counsel for the respondent No.3 is not in a position to deny this fact. Consequently, I award 40% future prospects.

Second argument raised by the learned counsel for the appellants is that in view of the judgment of the Supreme Court in the matter of ***Sarla Verma and others v. Delhi Transport Corporation and another, 2009 ACJ 1298,*** the multiplier of 18 has to be applied instead of 13. Learned counsel for the insurance company is not in a position to deny this also. Consequently, it is held that multiplier of 18 has to be applied.

Learned counsel for the respondents has stated that under the conventional heads Rs. 10,000/- has been granted and cited the judgment of the Supreme Court passed in the matter of ***Sureshchandra BagmalDoshi and Anr. vs. New India Assurance Company Limited and others*** reported as ***2018 (2) RCR (Civil) 841*** where the widowed daughter had died and the Supreme Court held as follows :-

> "*14. Now coming to the last aspect, i.e., the conventional heads, in National Insurance Company Limited(supra), it has been standardized at Rs.15,000 for loss of estate; Rs.40,000 towards loss of consortium (in the present case loss of love and affection) and Rs.15,000 towards funeral expenses. The total amount, thus, would be Rs.70,000, which as per the said judgment is capable of being enhanced @ 10 per cent in the span of every three years. However, we are still within the window of three years.*"

Having gone through the judgment, I find that their Lordships has considered the Constitution Bench judgment of the Supreme Court in the matter of ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009.*** Consequently, I grant a sum of Rs.60,000/- more under the conventional heads.

Counsel for the appellants states that no doubt income of the deceased taken by the Tribunal as Rs. 6,877/- was as per the provisions of the Minimum Wages Act for skilled labourer in Punjab yet once it was proved that the deceased was also the owner of the truck the income taken seems to be very low and argued that the income of the deceased should be taken as Rs. 7,000/-. I find weight in the argument. Consequently, I take the income of the deceased as Rs. 7,000/- per month.

Learned counsel for the appellants further states that rate of interest at the rate of 7% has been awarded by the Tribunal which is very low. I find this to be indeed so. Consequently, I award 7.5% interest on the entire amount from the date of filing of the claim petition till the date of payment.

The enhanced amount would go to the mother of the deceased i.e. appellant No.1. Rest of the Award shall remain unchanged.

The appeal stands disposed of with the abovesaid modifications.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

14.9.2018
anuradha

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No