IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-3891-2014 (O&M)
Date of decision :13 August, 2018

Sharanjit Kaur

......Appellant

Versus

Kulwant Singh and Ors.

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Kushagra Mahajan, Advocate
for the appellant.

Mr. Vinod Gupta, Advocate
for respondent- National Insurance Company.

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TEJINDER SINGH DHINDSA , J (ORAL)

This is the claimants appeal seeking enhancement of compensation.

Briefly it may be noticed that a claim petition was filed under Section 166 of the Motor Vehicles Act, 1988 seeking compensation to the tune of ₹15 lakhs on account of death of Gurjiwan Singh in a motor vehicle accident that took place on 02.11.2011. Claimant was the mother of the deceased. Case set-up on behalf of claimant was that on 02.11.2011 Gurjiwan Singh (since deceased) while proceeding on a motor-cycle was struck by a car bearing registration No. PB-9-G-6703 being driven in a rash and negligent manner by its driver Kulwant Singh and on account of injury suffered he expired on the same very day.

Since the only issue raised in the instant appeal is with regard to quantum of compensation, this Court would be adverting to the findings recorded by the Tribunal on the issue pertaining to compensation.

I have heard counsel for the appellant and also counsel for the contesting Insurance Company.

Perusal of the award dated 02.12.2013 passed by the Motor Accidents Claims Tribunal (Adhoc), Fast Track Court, Amritsar would reveal that income of the deceased was assessed as at ₹4,000/- per month. Since the deceased was a bachelor, 50% deduction in income was taken towards personal and living expenses of the deceased. Taking the age of the deceased as 22 years multiplier of 17 was applied. ₹10,000/- was awarded as funeral expenses. A total compensation amount awarded is ₹4,18,000/-.

Having heard counsel for the parties at length this Court is of the considered view that compensation amount would require enhancement in terms of the guidelines furnished by the Hon'ble Supeme Court in ***Smt. Sarla Verma and Ors. Vs. Delhi Transport Corporation and another 2009(3) RCR (Civil) 77,*** and ***National Insurance Compnay Limited Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009.*** Even though the claimant had asserted the income of the deceased was ₹10,000/- per month yet no cogent and conclusive evidence has been led to substantiate such claim. The Tribunal as such has taken the wages of daily-wager in co-relation to the date of the accident i.e. 02.11.2011 and has assessed the monthly income of the deceased to be ₹4,000/- per month. The same does not call for any interference.

The deduction of 50% towards personal and living expenses of the deceased has also been correctly made as deceased was concededly a bachelor.

The Tribunal has completely overlooked the aspect of increase in income towards future prospectus. Keeping in view the age of the deceased i.e. 22 years and the fact that he was self employed, an increase in income towards future prospectus at the rate of 40% is awarded by applying the parameter laid down in ***Pranay Sehti's case (supra).***

That apart as per ***Sarla Verma judgmenet (supra)*** the multiplier that the Tribunal ought to have applied was 18 keeping in view the age of the deceased as opposed to 17. The same is so directed.

The amount towards funeral expenses awarded by the Tribunal is enhanced from ₹10,000/- to ₹15,000/-. A like amount of ₹15,000/- is also awarded towards loss of estate.

In view of the above the revised/enhanced compensation amount is calculated and computed as follows:-

Sr. No.	Head	Calculation
1.	Income ₹4000/- p.m.	₹4000 + 40% future prosectus =4000+1600=₹5600/-
2.	50% deduction towards personal and living expenses of the deceased.	₹5600-2800=2800/- ₹2800x12=33,600/-.
3.	Compensation after applying multiplier of 18	₹33,600 X 18=604800/-

4	Conventional Heads: loss of estate, funeral expenses.	₹30,000/-
	Total	₹6,34,800/-

The aforementioned calculated enhanced compensation amount be released in favour of the claimant/appellant along with interest at the rate of 6% from the date of filing of the present appeal till actual realization.

Appeal is disposed of in the aforesaid terms.

(TEJINDER SINGH DHINDSA)
JUDGE

13.08.2018
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No