IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-144-2016 (O&M)
Date of Decision: 13.09.2018

Smt. Savita Jagdev & others --Appellants

Versus

Man Preet Singh & another --Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Krishan Singh, Advocate for the appellants.

Mr. Himanshu Chauhan, Advocate for respondent no.1.

Mr. Pradeep Kumar, Advocate for respondent no.2.

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TEJINDER SINGH DHINDSA.J (Oral)

This is claimants' appeal seeking enhancement of compensation.

Brief facts are that a claim petition was filed under Section 166 of the Motor Vehicle Act, 1988 seeking compensation to the tune of Rs.70 lacs on account of death of Suresh Kumar Jagdev in a motor vehicle accident that took place on 19.1.2013. Case set up on behalf of the claimants was that while Suresh Kumar Jagdev (since deceased) was proceeding on a scooter, he was struck by the offending/insured car bearing registration no. HR-99-8037 and being driven in a rash and negligent manner by Man Preet Singh, respondent no.1.

Claimants were the widow, two daughters and son of the deceased.

The Tribunal vide award dated 16.12.2014 has awarded a total compensation amount of Rs.11,13,500/- along with interest @ 7.5% per annum from the date of institution of the claim petition till realization. The liability to pay the compensation amount has been fastened jointly and severally upon the respondents.

Since the only issue involved in the instant appeal is with regard to quantum of compensation, this Court would be adverting to the findings recorded by the Tribunal in relation to Issue No.2 and which was framed in the following terms:-

> *"2. To what amount of compensation and if any, from whom the claimants are entitled?OPP."*

Having heard counsel for the appellants as also counsel representing the contesting Insurance Company, this Court is of the considered view that there is a scope for marginal enhancement of the compensation amount.

Even though, counsel for the appellants has vehemently contended that the deceased was working as a Manager in a pharmaceutical firm and was also doing the business of Dairy Farming, as such, his income ought to have been assessed @ Rs.25,000/- per month, yet, such submission is found to be without merit.

The Tribunal has accepted the monthly income of the deceased to be Rs.13,500/- per month on the testimony of Balwinder Kumar, PW-3 and who had appeared in the witness box in the capacity of proprietor of M/s Ultrachem Laboratories and as per him deceased was drawing a salary of Rs.13,500/- per month. That apart, no other evidence had been adduced on behalf of the claimants for this Court to accept the submission made by counsel and to take the monthly income of the deceased to be in excess of Rs.13,500/-. No interference on such aspect, as such, is warranted.

Counsel further argues that a multiplier of 11 should have been applied to the multiplicand as age of the deceased was 55 years as on the date of accident. However, such submission is not well founded. The

Tribunal has taken the age of the deceased to be 56 years upon due appreciation of documentary evidence adduced on record in the nature of PAN Card Ex. P-5 and the Higher Secondary (Part-I) Examination Certificate Ex. P-7 of the deceased and which disclosed his date of birth as 1.3.1957. As the date of accident in the facts of the case was 19.1.2013, the age of the deceased has rightfully been taken by the Tribunal to be 56 years. Under such circumstances, no fault is found in adopting the multiplier of 9 to the multiplicand.

Concededly, widow of the deceased in her affidavit before the Tribunal had clearly stated that all the claimants were dependents upon the deceased. Under such circumstances, the 1/4th deduction applied by the Tribunal towards personal and living expenses of the deceased is also correct.

This Court finds that the Tribunal has overlooked the aspect with regard to addition in income towards future prospects. Keeping in view the factual premise that age of the deceased was in the bracket of 51 to 60 years and that he was not in a permanent employment, an increase in income @ 10% towards future prospects is awarded as per dictum laid down in ***National Insurance Company Limited Vs. Pranay Sethi and others, 2017(4) R.C.R (Civil), 1009.***

Furthermore, the amount of Rs.20,000/- awarded by the Tribunal under the conventional heads would now stand enhanced to Rs.70,000/- i.e. Rs.15,000/- for funeral expenses, Rs.15,000/- for loss of estate and Rs.40,000/- for loss of consortium, as per dictum laid down in ***Pranay Sethi's*** case (supra).

In view of the above, the compensation amount is reassessed and calculated as follows:-

Sr. No.	Head	Calculation
1.	Income as assessed by the Tribunal	13,500/- per month
2.	10% increase in income towards future prospects	13,500+10%=14,850/-
3.	25% deductions towards personal expenses of the deceased.	14,850 ÷ 4 = 3712/- 14,850-3712 = 11,138/-
4.	Compensation after applying multiplier of 9	11,138x12 = 1,33,656/- 1,33,656x9 = 12,02,904/-
5.	Conventional heads (Rs.15,000/- for funeral expenses, Rs.15,000/- for loss of estate and Rs.40,000/- for loss of consortium)	70,000/-
6.	Total	Rs.12,72,904/-

The afore-calculated enhanced compensation amount would be paid by the respondent-Insurance Company along with interest @ 6% per annum from the date of filing of the appeal till actual realization. The enhanced compensation amount would be apportioned amongst the appellants, whereby 50% of the enhanced compensation amount would be released in favour of appellant no.1 Smt. Savita Jagdev i.e. widow of deceased and the balance 50% in equal shares amongst appellants no.2 to 4.

Appeal is disposed of in the aforesaid terms.

(TEJINDER SINGH DHINDSA)
JUDGE

13.09.2018
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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No