IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 4205 of 2014 (O&M)
Date of decision : July 03, 2018

Guddi and others .....Appellants

Versus

Rajbir Singh and others ....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Sansar Kundu, Advocate
for the appellants.

Mr. Varun Sharma, Advocate with
Mr. Satpal Dhamija, Advocate
for respondent No. 5 - insurance company.

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LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal, Jind (hereinafter referred to as the 'Tribunal') on account of death of Balbir Singh vide award dated 07.09.2013.

Brief facts necessary for adjudication of the case are that the applicant-claimants i.e. widow and four minor children of the deceased – Balbir Singh filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Balbir Singh on 13.12.2012 in a motor vehicle accident caused due to rash and negligent driving of the offending vehicle i.e. Tata-407 bearing registration No. HR-56-2395 driven by respondent No.1. FIR No. 303 dated 14.12.2012 (Ex. P2) under Sections 279, 337 and 304-A IPC was registered at Police Station Sadar Jind, District Jind in respect to the accident. The deceased, aged 30 years at the time of the accident was stated to be working with M/s Choudhry Tyre Agency, Chandigarh besides being engaged in agricultural work. The deceased was averred to be getting a sum of ₹15,000/- per month.

Learned Tribunal on consideration of facts and evidence on record awarded a sum of ₹8,66,000/- alongwith the interest at the rate of 9% per annum. Income of the deceased was assessed as ₹6,000/- per month. Deduction of 1/3[th] was effected, keeping in view the number of dependants. Multiplier of 17 was applied. A sum of ₹20,000/- was awarded on account of loss of consortium and loss of love and affection, ₹5,000/- for loss of estate and a sum of ₹25,000/- on account of funeral expenses.

Learned counsel for the appellants submits that income of the deceased has been wrongly assessed as ₹6000/-, keeping in view the specific and positive evidence on record reflecting the employment of the deceased with M/s Choudhry Tyre Agency earning a sum of ₹15,000/- per month. Reference is made to the salary certificate (Ex.P3) duly proved by PW5 Jagdish, Proprietor of M/s Choudhry Tyre Agency. Moreover, a deduction of 1/4[th], it is argued should have been applied instead of 1/3[rd] keeping in view of the number of dependants. Moreover, no compensation has been awarded on account of future prospects of the deceased. It is submitted that in terms of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, loss of future prospects at the rate of 40% and a sum of ₹40,000/- on account of loss of consortium and ₹15,000/- on account of loss of estate are required to be awarded. It is, thus, prayed that compensation awarded to the claimants be enhanced.

Learned counsel for respondent No. 5 – insurance company, however, refutes the above said arguments while submitting that there is nothing on record to show that the deceased was permanently employed with M/s Choudhry Tyre Agency earning a sum of ₹15,000/- per month. The mere statement of the proprietor, it is submitted, is not sufficient to prove the employment of the deceased. Therefore, income of the deceased has been correctly assessed and the compensation rightly awarded to the claimants. It is, thus, prayed that the appeal be dismissed.

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

There is no dispute regarding the loss of life of Balbir Singh in motor vehicle accident, which took place on 13.12.2012 due to rash and negligent driving of the offending vehicle by respondent No. 1. Finding of the learned Tribunal on this issue has attained finality. There is further no dispute regarding the age of the deceased being 30 years at the time of the accident. The claimants have examined PW5 – Jagdish, Proprietor of M/s Choudhry Tyre Agency to prove that the deceased was working as Sales Manager of the Firm since the past one and a half year (1½) drawing a salary of ₹15,000/-per month. Salary certificate (Ex. P3) was proved on record. There is nothing on record to refute or negate the said evidence.

Keeping in view the facts and circumstances, it is considered appropriate to assess the income of the deceased as ₹10,000/- per month. In view of the guidelines in the judgment of the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), future prospects at the rate of 40% are required to be awarded in view of the age of the deceased (30 years). Thus, with the addition of ₹4000/-, income of the deceased is assessed as ₹14,000/- per month. Deduction of $1/4^{th}$ instead of $1/3^{rd}$ is to be applied as number of dependants is five (5), thereby rendering income of the deceased to be ₹10,500/-(14,000-3500) per month. Multiplier of 17 is correctly applied by the learned Tribunal. Annual dependancy of the claimants is, thus, assessed as ₹21,42,000/- (₹10500x12x17). The claimants are also entitled to ₹40,000/- on account of loss of consortium, ₹15,000/- each for funeral expenses and loss of estate. Claimants are, thus, entitled to total compensation of ₹22,12,000/- instead of ₹8,66,000/-.

Claimants are, thus, entitled to enhanced compensation detailed as under:-

Loss of dependency (10500x12x17)	₹21,42,000/-
Loss of consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	**₹22,12,000/-**

Needless to say, the amount of compensation already awarded to the appellants shall stand deducted from the amount calculated as above. Appellants 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.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants shall enure.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

(Lisa Gill)
July 03, 2018 **Judge**
rts

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