

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

208

FAO-4906-2013 (O&M)
Date of Decision : 30.10.2018

Smt. Roshni Devi and others

..... Appellants

Versus

Sandeep Kumar and others

.... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr. Vinod K. Kanwal, Advocate
for Mr. Ashit Malik, Advocate
for the appellants.

Mr. Sandeep Goyal, Advocate
for respondent No.1.

Mr. Rahul Pathania, Advocate
for Mr. R.C. Gupta, Advocate
for respondent No.5.

AJAY TEWARI, J. (ORAL)

This appeal has been filed for enhancement of compensation and for modifying the award dated 04.05.2013 awarding compensation of Rs.5,50,000/- alongwith interest @ 9% p.a. on account of death of Sat Pal in a motor vehicular accident which took place on 13.03.2011.

Since very limited issue of quantum of compensation has been raised in this appeal further detailed reference to the facts would not be required.

Counsel for the claimants-appellants has argued that the Tribunal has erred in taking the income at Rs.4000/- p.m. whereas it should be Rs.4400/- as per the Minimum Wages Act at the relevant time. Counsel for the respondent No.5 has very fairly accepted this fact. Consequently, I increase the income to Rs.4400/- p.m.

Counsel for the appellants has argued that future prospects of 25% has to be awarded in view of the judgment of the Supreme Court passed in ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009***. Counsel for the respondent No.5 has very fairly accepted this argument. Consequently, I award future prospects of 25%.

Counsel for the appellants has further argued that only an amount of Rs.10,000/- has been awarded under the conventional heads and more compensation has to be awarded under this head in view of the judgments of the Supreme Court in Pranay Sethi's case (supra) and ***Magma General Insurance Company Ltd., Vs. Nanu Ram @ Chuhru Ram & ors., Civil Appeal No.9581 of 2018 arising out of SLP (Civil) No.3192 of 2018, decided on 18.09.2018***. Counsel for the respondent No.5 is not in a position to deny this fact.

Since the claimants were widow, one major son and three minor sons and mother, I deem it appropriate to grant Rs.40,000/- to the widow under the head of consortium and an amount of Rs.40,000/- each to three minor sons and the mother of the deceased under the head of filial consortium. Further I deem it appropriate to grant Rs.30,000/- more towards funeral expenses and loss of estate. Ordered accordingly. The amount of Rs.10,000/- which has been paid under the convention heads be

deducted.

Counsel for the appellants has further argued that the interest @ 9% is on the lower side as per the judgment of the Supreme Court in Magma General Insurance Company Ltd.'s case (supra).

I find this to be indeed so. Consequently, I direct that the entire compensation amount be given alongwith interest @ 12% p.a. from the date of filing of the claim petition till the date of realization. Rest of the award shall remain unchanged.

The appeal stands disposed of in the above terms.

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

October 30, 2018
ashish

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No