IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5079 of 2013 (O&M)
Date of decision:28.08.2018.

Smt. Hanso Devi and others

...Appellants

Versus

Gurtej Singh alias Teja and another

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Munish Kumar Garg, Advocate for the appellants.

Mr. Suvir Dewan, Advocate for respondent No.2/Insurance Company.

LISA GILL, J.

This appeal has been filed by the claimants seeking enhancement of the compensation awarded to them by Motor Accident Claims Tribunal, Fatehabad (`Tribunal' for short) vide award dated 10.07.2013 on account of death of Prem Kumar alias Prem Chand in a motor vehicle accident on 31.03.2012.

The claimants, who are the widow and children of the deceased, filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of the death of Prem Kumar alias Prem Chand in a motor vehicle accident which took place on 31.03.2012. FIR No.81 dated 31.03.2012 was registered against respondent No.1 at Police Station Sadar, Tohana. It was averred that Prem Kumar was 40 years old at the time of his death. Deceased was a mason by profession, earning about Rs.15,000/- to 20,000/- per month. Claimants were fully dependent upon the deceased. Compensation was thus prayed for.

The learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place due to the rash and negligent driving of offending vehicle by respondent No.1. There is no dispute regarding the above said finding of the learned Tribunal on this issue, which has attained finality. Learned Tribunal further accepted the age of the deceased to be 40 years at the time of his death. As no clear and cogent evidence showing the exact earning of the deceased was forthcoming, the learned Tribunal considering the Deputy Commissioner rates for the minimum wages of a mason, assessed his income as Rs.7480/- per month. Deduction of 1/4th was effected towards the personal expenses. After applying a multiplier of 15, total dependency was assessed at Rs.10,09,800/-. Another sum of Rs.10,000/- was awarded for the loss of consortium and love and affection. A sum of Rs.12,000/- was also awarded towards funeral expenses and last rites and transportation. Thus, claimants were held entitled for total compensation of Rs.10,31,800/- along with interest @ 9% per annum from the date of filing of claim petition till realisation. Respondent No.2-Insurance Company was held liable to pay the amount of compensation to the claimants.

Learned counsel for the appellants argues that compensation awarded to the appellants needs to be enhanced. No increase on account of future prospects has been afforded. Deduction of 1/4th has wrongly been effected towards personal expenses. Income as assessed is however not disputed. It is thus prayed that this appeal be allowed and compensation awarded be enhanced.

Learned counsel for the Insurance Company has refuted the above said arguments while submitting that the impugned award has correctly been passed and no ground for any enhancement is made out.

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

Age of the deceased i.e. 40 years is not in dispute. Income assessed at Rs.7480/- is also not in dispute. Primary argument raised by learned counsel for the appellants is that in view of the guidelines laid down by the Hon'ble Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009**, 40% increase in income has to be afforded on account of future prospects. Deduction of 1/4th towards personal expenses has rightly been effected. Multiplier of 15 has rightly been applied. Claimants are entitled to Rs.15,000/- each for loss of estate and funeral expenses instead of Rs.12,000/- towards funeral expenses and last rites, besides Rs.40,000/- instead of Rs.10,000/- to the claimant widow for loss of consortium.

Appellants-claimants are, thus, entitled to compensation, which is re-worked as under:-

Sr.No.	***Heads of Claim***	
1.	Income	7480 p.m. i.e., 89760/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	89760+35904 (89760x40%) = 1,25,664/-
3.	Income after deduction of 1/4th on account of personal expenses	1,25,664–31416 (1,25,664/1/4th) = 94248/-
4.	Total dependency after applying a multiplier of 15	(94248 **x**15) =14,13,720/-
5.	Loss of estate	15,000/-

6.	Loss of consortium to wife	40,000/-
7.	Loss of funeral	15,000/-
Grand Total		14,83,720/-

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above. Appellants shall be entitled to interest at the rate of 9% 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 award dated 10.07.2013, present appeal is disposed of.

(LISA GILL)
JUDGE

August 28, 2018
Ishwar

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No