IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 5183 of 2013 (O&M)
Date of Decision : 17.01.2018

Smt. Anita and another .....Appellants

Versus

Vinod Kumar @ Barfani Transport and others .....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Rajeev Dev Sharma, Advocate
for the appellants.

Mr. D.S. Kahlon, Advocate
for respondents no. 1 and 2.

Ms. Vandana Malhotra, Advocate
for respondent no. 2-Insurance Company.

Surinder Gupta, J.

This is appeal by claimants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Pathankot (later referred to as 'the Tribunal') for death of Mohan Singh (later referred to as 'the deceased'), in a motor vehicle accident on 23.10.2007 with a Santro car bearing registration no. PB-06-D-7506 (later referred to as 'the offending vehicle').

2. As the only issue involved in this appeal is enhancement of compensation, detailed facts of the case are being skipped for the sake of brevity.

3. The Tribunal vide award dated 04.01.2013 awarded compensation of ₹10,65,240/- to claimants-appellants, which was computed as follows:-

Sr. No.	***Heads***	***Calculation***
(i)	Name of the deceased	Mohan Singh
(ii)	Age of the deceased	55 years
(iii)	Monthly income of the deceased	₹12105

(iv)	1/3rd of (iii) above deducted towards personal expenses	₹12105- ₹4035) = ₹8070 per month
(v)	Compensation calculated after applying the multiplier of 11	(₹8070X12X11) = ₹1065240
Total		**₹1065240**

4. Learned counsel for claimants-appellants has argued that deceased was a regular employee as *Chowkidar* at Ranjit Sagar Dam, Shahpurkandi. As per observations of Hon'ble Apex Court in case of ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009***, 15% addition is to be made in income of the deceased towards future prospects. Besides this, claimants-appellants are also entitled to compensation of ₹70,000/- on conventional heads like loss of consortium, loss of estate and funeral expenses. He further submits that the Tribunal while awarding compensation has not allowed interest from the date of filing of claim petition without any reason. It has rather granted opportunity to Insurance Company to pay the awarded compensation within a period of one month, failing which claimants were allowed to recover the same with interest @ 9% per annum per annum from the date of award instead of from the date of filing of claim petition.

5. Learned counsel for respondent no. 3-Insurance Company though has not conceded the submissions of learned counsel for the appellants but could not rebut the same in view of the observations of Hon'ble Apex Court in case of ***Pranay Sethi (supra).*** About the interest allowed by the Tribunal, she has argued that it is the discretionary power of the Tribunal to allow interest on the amount of compensation, which is not required to be interfered with in this appeal.

6. As per observations of Hon'ble Apex Court in case of ***Pranay Sethi (supra)***, where the deceased had a permanent job 15% of actual salary should be added in his income towards loss of future prospects. Compensation

of ₹40,000/- towards loss of consortium and ₹15,000/- each towards loss of estate and funeral expenses has been allowed in that case. Claimants are entitled to get compensation as per observations in above referred case.

7. Claim petition was filed on 17.02.2010 and was decided on 04.01.2013 i.e. after a period of about three years. The Insurance Company has contested the claim put-forth by claimants and award was passed on merit. Keeping in view above facts, I find no reason that Tribunal should have extended any concession while awarding interest on the amount of compensation, as such, concession allowed to Insurance Company to deposit compensation amount within a period of one month, failing which to pay interest @ 9% per annum from the date of award, is not sustainable and is set aside. Claimants shall be entitled to interest @ 7% per annum on the amount of compensation as awarded by Tribunal from the date of filing of claim petition till actual payment.

8. In view of observations of Hon'ble Apex Court in case of ***Pranay Sethi (supra)***, compensation to which claimants-appellants are entitled is reassessed as followings:-

Sr. No.	***Heads***	***Calculation***
(i)	Name of the deceased	Mohan Singh
(ii)	Age of the deceased	55 years
(iii)	Monthly income of the deceased	₹12105
(iv)	15% of (iii) is to be added towards future prospects	(₹12105+ ₹1815) = ₹13920 per month
(v)	1/3rd of (iv) above deducted towards personal expenses	₹13920- ₹4640) = ₹9280 per month
(vi)	Compensation calculated after applying the multiplier of 11	(₹9280X12X11) = ₹1224960
(vii)	Funeral expenses	₹15000
(viii)	Loss of estate	₹15000
	Loss of consortium	₹40000
Total		**₹1294960 (rounded off to ₹1295000**

9. As a sequel of my discussion above, the instant appeal has merit and the same is accepted with cost. Award of the Tribunal is modified and the compensation allowed to claimants for death of Mohan Singh is enhanced from ₹10,65,240/- to ₹12,95,000/-. The enhanced amount of compensation will carry interest @ 7% per annum from the date of filing of the claim petitions till actual realization. Respondent no. 3-Insurance Company being insurer of the offending vehicle will deposit the share of claimants in their bank accounts or pay the same through demand drafts. Claimants will share the enhanced amount of compensation as follows:-

(i)	Claimant-appellant no. 1 (wife)	:	75%
(ii)	Claimant-appellant no. 2 (son)	:	25%

10. Counsel fee is assessed as ₹20,000/-.

January 17, 2018 **(SURINDER GUPTA)**
jk **JUDGE**

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*