IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No.3038 of 2015.
Decided on:-January 19, 2018.

Birmati and others

………Appellants.

Versus

Ganpat Gurnule and others

………Respondents.

CORAM: ***HON'BLE MR. JUSTICE HARI PAL VERMA.***

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Present:- Mr. S.P. Chahar, Advocate
for the appellants.

None for respondents No.1 and 2.

Mr. Harjinder Singh, Advocate for
Mr. Navin Kapur, Advocate for respondent No.3.

HARI PAL VERMA, J. (Oral)

The appellant-claimants have filed the present appeal for enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Jhajjar (for short, the Tribunal) vide award dated 17.10.2014.

Briefly stated, the appellant-claimants had filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, the Act) seeking compensation on account of death of Sumer Chand, aged about 53 years. He was working as a dumper operator and died in a motor vehicular accident, which took place on 15.04.2012. Vide award dated 17.10.2014, the Tribunal has awarded total compensation of Rs.26,65,000/- along with interest @ 7.5% per annum from the date of filing of the petition till its realization.

Learned counsel for the appellants has argued that the award passed by the Tribunal needs to be modified/enhanced as no compensation has been awarded for the future prospects and under the conventional heads as held by the Apex Court in ***National Insurance Company Limited Versus Pranay Sethi and others 2017(4) RCR (Civil) 1009***. He has further contended that the deceased was about 51 years of age and a higher amount of compensation was required to be granted.

On the other hand, learned counsel for the respondent-insurance company has argued that adequate compensation has already been awarded by the Tribunal and there is hardly any scope to interfere with the well-reasoned award.

I have heard learned counsel for the parties and find that in the impugned award dated 17.10.2014 passed by the Tribunal, no deduction towards income tax has been made while assessing compensation on the basis of salary of the deceased. From the salary of the deceased, the income tax is payable to the Government of India, which is required to be deducted. However, with the assistance of learned counsel for the parties, this Court finds that the deceased was 51 years of age and was drawing a salary of Rs.38,652/- per month. Therefore, in view of the judgment passed in ***Pranay Sethi and others' case (supra)***, the award passed by the Tribunal needs modification and the appellants are required to be awarded compensation in accordance with the following tabulated form:

Monthly income		Rs.38,652/-
Annual income	(38652x12)	Rs.4,63,824/-

Annual income after deduction of income tax	(4,63,824-26,382)	Rs.4,37,442/-
Future prospects	(10% of 4,37,442/-)	Rs.43,744/-
Total annual income	(4,37,442+43,744)	Rs.4,81,186/-
Dependency of claimants	(50% of 4,81,186)	Rs.2,40,593/-
Multiplier	(2,40,593x11)	Rs.26,46,523/-
Conventional heads		
	Loss of estate	Rs.15,000/-
	Funeral expenses	Rs.15,000/-
	Loss of consortium	Rs.40,000/-
Total amount of compensation		Rs.27,16,523/-
Amount already awarded		Rs.26,65,000/-
Enhancement		Rs.51,523/-

Accordingly, the present appeal is allowed and the award dated 17.10.2014 passed by the Tribunal is modified to the aforesaid extent. Consequently, the appellant-claimants are awarded total amount of compensation of Rs.27,16,523/- along with interest @ 7.5% from the date of filing of the claim petition till its realization.

(HARI PAL VERMA)
JUDGE

January 19, 2018
Yag Dutt

Whether speaking/reasoned: Yes

Whether Reportable: No