

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

208

FAO-5075-2014

Date of Decision:22.02.2018

Gurdev Kaur and another

.....Appellants

Versus

Nand Bhushan @ Sunny and others

.....Respondents

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

Present: Mr. Munish Gupta, Advocate,
for the appellants.

Ms. Pavleen Kaur, Advocate for
Mr. Rajiv K. Kapila, Advocate,
for respondent No.1.

Mr. Rahul Pathania, Advocate and
Mr. R.C. Kapoor, Advocate,
for respondent No.3-Insurance Company.

HARI PAL VERMA, J.(Oral)

Appellants-claimants have filed the present appeal seeking enhancement of compensation in the award dated 11.11.2013 passed by the Motor Accident Claims Tribunal, Fast Track Court, Hoshiarpur (for short “the Tribunal”).

In a claim-petition filed under Section 166 of the Motor Vehicles Act, on account of death of Ashok Kumar in a motor vehicular accident, which took place on 12.03.2012, the Tribunal has awarded a total compensation of ₹6,21,600/- to the claimants along with interest @ 6% per

annum from the date of filing of the claim-petition till its realization.

Learned counsel for the appellants has argued that deceased Ashok Kumar was about 25 years of age. He was unmarried and was working as a Mechanic in Navyug Industries. Therefore, his monthly income has to be assessed equivalent to that of a semi skilled worker instead of an unskilled worker. Even otherwise, the Tribunal has considered the wages of deceased-Ashok Kumar @ ₹4,000/- per month, whereas as per Notification which was in force at the relevant time i.e. at the time of accident, wages of the semi-skilled worker were ₹4,613/- per month.

Learned counsel has produced a copy of Certificate issued by the Registrar AISECT, 2008 Certified Organisation and Partner Institution of IGNOU (A Central University Sponsored by MHRD, Govt. of India), wherein it has been mentioned that deceased Ashok Kumar had attended the diploma in diesel engine repairing during the period from July 2010 to June 2011. Thus, the deceased was a semi-skilled worker. This certificate is taken on record and is marked 'A'. He has further argued that in view of the law laid down by the Hon'ble Apex Court in case **National Insurance Company Limited Versus Pranay Sethi and others, 2017 (4) R.C.R (Civil) 1009**, the deceased being 25 years of age, the claimants are entitled to future prospects @ 40% instead of 30% as awarded by the Tribunal.

On the other hand, learned counsel for respondent No.3- insurance company has argued that there was not enough material before the Tribunal to certify that the deceased Ashok Kumar was a skilled worker and therefore, the Tribunal has rightly assessed the income of the deceased as ₹4,000/- per month. He has further argued that the Tribunal has already awarded higher compensation under the conventional heads. Instead of awarding ₹15,000/- on account of funeral expenses and another ₹15,000/-

towards loss of estate, the Tribunal has awarded ₹25,000/- under each head, respectively.

I have heard the learned counsel for the parties.

The accident and liability are not in dispute. What is in dispute is the quantum of compensation awarded by the Tribunal.

It is not in dispute that the deceased was 25 years of age. Therefore, as held in **Pranay Sethi's case(supra)**, the claimants are entitled to compensation under the head of future prospects @ 40% instead of 30%. No doubt, the certificate which has been produced during the course of proceedings was not produced before the Tribunal, but as the certificate relates to the period from July 2010 to June 2011, it cannot be said that the same is a created document so as to claim higher compensation. This certificate shows that the deceased had attended the diploma in diesel engine repairing. Therefore, this Court finds that the deceased fall in the category of a semi-skilled worker and at the relevant time when the accident was caused, the minimum wages of a semi-skilled worker were ₹4,613/- per month. Therefore, the income of the deceased is hereby assessed as ₹4,613/- per month instead of ₹4,000/- per month as assessed by the Tribunal.

Accordingly, considering the income of the deceased as ₹4,613/- and treating him as a Mechanic, a semi-skilled worker and the fact that he was unmarried at the time of death, therefore, deductions of 50% is required to be applied. The compensation under the conventional heads also needs modification.

Accordingly, on the basis of monthly income as modified, this Court finds that the claimants are entitled for compensation in the following

manner:-

Monthly income	:	₹4,613/-
Future prospects (40%)	:	₹1,845.20
Total monthly income	:	₹6,458.20
Annual income	:	₹77,498.40
Deductions (50%)	:	₹38,749.20
Total loss of dependency (₹38,749.20 x 18)	:	₹6,97,485.60
Loss of estate	:	₹15,000/-
Funeral expenses	:	₹15,000/-

Total amount of compensation :		₹7,27,485.60
Amount already awarded :		₹6,21,600/-

Enhanced amount	:	₹1,05,885.60
Rounded off	:	₹1,05,886/-

The enhanced amount of compensation shall carry interest @ 7.5% per annum from the date of filing the claim-petition till its realization.

With the aforesaid modification in the award, the present appeal stands disposed of.

February 22, 2018
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No