IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 5352 of 2014 (O&M)
Date of decision : July 31, 2018

Ram Kumar Mittal .....Appellant

Versus

Pawan Kumar and others ....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Ms. Ekta Thakur, Advocate for the appellant.

Mr. Neeraj Khanna, Advocate for Mr. Ravinder Arora, Advocate for respondents No. 2 and 3.

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LISA GILL, J.

Present appeal has been filed by the claimant for enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as the 'Tribunal') on account of death of Deepak Kumar Mittal vide award dated 01.05.2014.

Brief facts necessary for adjudication of the case are that the claimant i.e. father of the deceased filed petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Deepak Kumar on 07.05.2013 in a motor vehicle accident caused due to driving of the offending vehicle bus bearing registration No. HP-72-0250 by respondent No.1 in a rash and negligent manner. Deepak Kumar died on the spot. FIR No. 161 dated 07.05.2013 under Sections 279, 337 IPC (Section 304-A IPC added later) was registered at Police Station Sector 26, Chandigarh in respect to the accident.

The claimant-appellant was stated to be 22 years old at the time of the accident, self employed and earning a sum of ₹15,000/- per month. It was further averred in the claim petition under Section 166 of Motor Vehicles Act that the claimant's son was an Accountant by profession. A sum of ₹25,00,000/- was claimed as compensation on account of his death.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place on 07.05.2013 due to rash and negligent driving of the offending bus bearing registration No. HP-72-0250 driven by respondent No. 1. This finding of the learned Tribunal has attained finality. Learned Tribunal awarded a sum of ₹9,97,000/- with interest at the rate of 7.5% per annum from the date of filing of the claim petition till date of actual realisation of the award. Income of the deceased was assessed as ₹6,000/- per month. 50% increase in income on account of future prospects was afforded. Multiplier of 18 was applied as the deceased was 23 years old at that time. Additionally, a sum of ₹25,000/- was awarded on account of expenditure incurred on transportation and last rites.

Learned counsel for the appellant argues that income of the deceased has been wrongly assessed as ₹6,000/- while equating the deceased to be a casual labourer. Reference is made to certificate (Ex.P8) issued by DBD LED Optics Private Limited to argue that the deceased had worked for the said organisation temporarily from 15.12.2012 to 31.03.2013 for a sum of ₹24,867/-. It is further submitted that the deceased had cleared his 10+2 examination and had completed a course of Accounts Executive (Ex. P6) from Academy of Computer Accountants. It is submitted that income of the deceased be assessed as ₹8,000/- per month. It is, thus, prayed that this appeal be allowed.

Learned counsel for the respondents refuted the above said arguments while submitting that award dated 01.05.2014 be upheld. Learned counsel for insurance company argues that the said certificate (Ex. P8) has not been proved by any authorised official of DBD LED Private Limited. Ex. P8, which is in relation to the alleged working of the deceased on temporary basis with DBD LED Private Limited does not advance the case of the appellant. Ex. P6 is also not proved to have been issued by any recognised academy/institution. Learned Tribunal moreover has afforded increase of 50% in the income of the deceased instead of 40% on account of future prospects in view of the guidelines of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009.** It is, thus, prayed that this appeal be dismissed.

I have heard learned counsel for the parties and have gone through the record.

A perusal of the record reveals that the appellant – claimant, who is the father of the deceased, has himself stepped in the witness box but there is indeed no evidence on record regarding the deceased earning a sum of ₹8,000/- per month.

It is to be noticed that minimum wages of a highly skilled labourer in the State of Haryana were less than ₹6000/- i.e. ₹5357/- per month and in State of Punjab were ₹6475/-, therefore, no fault can be found with the assessment of the income of the deceased to be ₹6000/- per month.

Keeping in view the facts and circumstances of the case, income of the deceased could at best be assessed as ₹6475/- per month. However, there would not be much of a difference in the compensation awarded to the claimants even with the said increase as the increase of 50%

on account of future prospects is required to be reduced to 40% in view of the guidelines of the Hon'ble Supreme Court in **Pranay Sethi's** case (supra). Perusal of the record, specifically Ex. P6 reveals that there is no such certificate on record which would show the educational qualification of the deceased beyond 10+2 examination. Ex. P6 is not referable to any accredited university/institution. Learned counsel for the appellant is unable to point out any such evidence on record. There is no evidence on record, which calls for assessment of higher income of the deceased. Thus, the learned Tribunal has rightly assessed the income of the deceased as ₹6000/- per month.

No other argument has been raised. Learned counsel for the appellant is unable to point out any perversity or illegality in the award dated 01.05.2014. Keeping in view the facts and circumstances of the case, I do not find any ground to vary the impugned award dated 01.05.2014 passed by the learned Tribunal.

Present appeal is, accordingly, dismissed.

(Lisa Gill)
Judge

July 31, 2018
rts

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No