101.

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-5538-2014 (O&M)
Date of decision:09.03.2018.

SINDERPAL KAUR & ORS ... Appellants

Versus

SURINDER SINGH & ORS .... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Rajbir Singh, Advocate, for the appellants.

Mr. Harsh Aggarwal, Advocate, for respondent No.3-Insurance Company.

<u>HARI PAL VERMA, J.</u> *(Oral)*

Appellants have filed the present appeal seeking enhancement of compensation over and above the compensation awarded by the Motor Accident Claims Tribunal, Sangrur (for short, "the Tribunal") vide award dated 05.10.2013.

Briefly stated, the claimants filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 on account of death of Dashmi Dass in a motor vehicular accident which took place on 11.07.2012. On the unfortunate day, the deceased, who was working as a Record Clerk with New India Assurance Company Limited, Sangrur, was going to his office on his motorcycle bearing registration No.PB-13-S-1667. He was being followed by Gurjinder Singh and his uncle, who were also coming on a motorcycle bearing registration No.PB-13-W-7814. At about 9:30 AM when Dashmi Dass was going on college road, the offending vehicle i.e. Truck bearing registration No.PB-10BQ-9425 being driven by respondent No.1 and owned by respondent No.2, came on a high speed and rammed into the motorcycle of Dashmi Dass. As a result thereof, Dashmi Dass suffered multiple grievous injuries and died instantaneously. In this respect, an FIR No.161, dated 11.07.2012 under Sections 279, 427, 304-A IPC was registered at Police Station City Sangrur.

The Tribunal has considered the income of the deceased as ₹27,178/- per month and after deducting 30% of the income towards income tax, his monthly income was assessed as ₹19,025/-. The deceased being 52 years of age, the Tribunal applied multiplier of 11, as held in the case of ***<u>Sarla Verma Versus Delhi Transport Corporation and another-2009(6) SCC 121</u>***. An amount of ₹5,000/- was granted for loss to estate, ₹5,000/- on account of funeral expenses and ₹5,000/- on account of loss of consortium. Thus, a total compensation of ₹16,89,200/- was awarded.

Not satisifed with the aforesaid amount of compensation, the appellants have filed the present appeal for enhancement.

The accident and liability are not in dispute and what is in dispute is the quantum of compensation.

Learned counsel for the appellants has argued that the monthly income of the deceased was ₹27,178/- and, therefore, the claimants are entitled for addition of 50% towards future prospects as held by the Hon'ble Apex Court in ***<u>National Insurance Company Limited Versus Pranay Sethi and others-2017(4) RCR (Civil) 1009</u>***. Similarly, under the conventional heads of compensation, the claimants are entitled for a total amount of ₹70,000/- (which includes ₹15,000/- towards funeral expenses, ₹40,000/- towards loss of consortium and ₹15,000/- towards loss of estate). However, he has not disputed the applicability of multiplier as 11 considering the age of the deceased. He has further argued that the deduction under the head of income tax is on the higher side, against the admissible deduction. The Tribunal has applied 30% deduction under the head of income tax whereas considering the income of the deceased, not more than 10% should have been deducted under the income tax.

On the other hand, learned counsel for respondent No.3-Insurance Company has argued that there is no scope for further enhancement of compensation as the Tribunal has already awarded adequate compensation considering the age of the deceased, dependency thereof and the multiplier.

I have heard learned counsel for the parties.

There is no dispute that the monthly income of the deceased was ₹27,178/- as he was employed as a Record Clerk. Considering the income of the deceased as ₹27,178/- per month, the claimants are entitled to future prospects @ 15% as the deceased was about 52 years of age and was working with the Insurance Company. Similarly, the Tribunal has made deduction @ 30% from the income of the deceased ignoring the fact that the taxable income of the deceased was not as such which may attract 30% deduction. This Court finds that on the relevant date, the deductions could not have been more than 10% under the head of income tax, as in the relevant financial year, the taxable limit starts beyond ₹2 lakhs and the income upto an amount of ₹2 lakhs was exempted from the ambit of income tax. The compensation awarded under the conventional heads is also not in accordance with law laid down in ***<u>Pranay Sethi's case</u>*** (supra).

Accordingly, the compensation to which the claimants are entitled, is re-assessed in the following manner:-

Heads		**Calculation**
Monthly Income		₹27,178.00
Future prospects (%age)	15%	₹4,076.70
Total monthly income (monthly income + Future prospects)		₹31,254,70
Annual income (total monthly income x 12)		₹3,75,056.40
Income Tax		₹18,031.00
Annual income (after tax deduction)		₹3,57,025.40
Deductions (towards personal expenses of deceased)	1/3	
Annual dependency		₹2,38,016.93
Multiplier (annual dependency x multiplier)	11	
Total loss of dependency		₹26,18,186.27
Conventional heads:		
Loss of Estate		₹15,000
Funeral expenses		₹15,000
Loss of consortium		₹40,000
Total amount of compensation		₹26,88,186.27
Amount already awarded		₹16,89,200
Enhancement		₹9,98,986.27 rounded off to ₹9,98,990/-.

In view of above, the appellant-claimants shall be entitled to an amount of ₹9,98,990/- over and above the amount already awarded to them by the Tribunal.

With the aforesaid modification, present appeal is disposed of. The enhanced amount shall be payable to the appellant-claimants along with interest @ 7.5% per annum from the date of filing of claim petition till its realization.

(HARI PAL VERMA)
JUDGE

09.03.2018
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Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No