

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO No.6371 of 2013 (O&M)

Date of decision : 28.05.2018

Manjeet Kaur

...Appellant

Versus

Ajaib Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: Mr. Vipul Dharmani, Advocate for the appellant.

None for respondent Nos.1 and 2.

Ms. Shamsheer Kaur, Advocate for respondent No.3.

ANIL KSHETARPAL, J.

Arguments were heard. Judgment was reserved. The judgment is being released.

CM No.25930-CII of 2013

For the reasons stated in the application, which is duly supported by an affidavit, delay of 68 days in filing the present appeal is condoned.

Application is allowed.

Main Case

Widow-claimant is in appeal seeking enhancement of the compensation awarded by the Motor Accident Claims Tribunal on account of death of her husband Dharam Singh aged about 53 years on 01.04.2011. The finding of the Court with regard to the rash and negligent driving of the offending vehicle is not in dispute in the present appeal. During the pendency of the appeal, the application under Order 41 Rule 27 CPC was allowed and the Motor Accident Claims Tribunal, Rupnagar was requested to allow the parties to lead evidence and submit a report. The aforesaid report dated 20.09.2017 has been submitted.

The deceased was serving as a teacher in the Government Middle School, Lahori, District Ropar. Learned Tribunal assessed the dependency on incorrect basis. As per the report submitted, the gross salary of the deceased on the date of accident was ₹43,642/- per month. However, since deceased was under suspension but later on reinstated on 09.06.2011, so he continued to draw the salary of ₹43,642/- per month. Since, late Sh. Dharam Singh was not having child, therefore, he left behind only one dependent i.e. the appellant. 50% cut is to be applied. Hence, the dependency would be worked out as ₹21,821/- per month. The deceased was 53 years old as per finding of the learned Tribunal.

Learned counsel for the appellant has submitted that as per the judgment passed by the Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation, 2009(3) RCR (Civil) 77**, multiplier of 11 should be applied as ordered by the Tribunal. However, on the other hand, learned counsel for the respondent-Insurance Company has submitted that the deceased was bound to retire at the age of 58 and, therefore, income has to be reduced by 50%.

This Court has considered the submission. No doubt, the deceased would have retired at the age of 58 but on attaining the age of superannuation i.e. 58 one may retire from service but does not retire from life. The teachers are always in demand in private schools as well as in coaching centres, tuition etc. Hence, this Court does not find that the argument of the learned counsel for the Insurance Company on the question of multiplier can be accepted.

The income would further required to be increased by 15% on account of future prospects.

Under the conventional heads, the appellant shall be entitled to total amount of ₹70,000/- out of which learned Motor Accident Claims Tribunal has

already awarded ₹15,000/- so, there would be increase of ₹55,000/- under that head. The amount of compensation is re-worked as under the following heads:-

<u>HEADS</u>	<u>COMPENSATION AWARDED BY MOTOR ACCIDENT CLAIMS TRIBUNAL</u>	<u>COMPENSATION AWARDED BY HON'BLE HIGH COURT</u>
Income taken	₹20,917/- p.m.	₹43,642/- p.m.
Annual Income		₹43,642 x 12 = ₹5,23,704/-
<u>Income Tax</u>	Exempted	
Upto ₹2,50,000/-	NIL	NIL
From ₹2,50,000/- to ₹5,00,000/- (10%)	NIL	₹25,000/-
Above ₹5,00,000/- i.e. ₹23,704 x 20%		₹4,740/-
<u>Total Tax</u>		₹29,740/-
Deduct Income Tax		₹4,93,964/- (₹5,23,704/- - ₹29,740/-)
(+) 15% future prospects	NIL	+ ₹74094.6
		₹5,68,059/-
<u>50% Deduction</u>	- ₹10,458/- (₹10,000/- round figure is taken)	- ₹2,84,030/-
Multiplier = 11	₹10,000 x 11 x 12 = ₹13,20,000/-	₹2,84,030 x 11 = ₹31,24,330/-
<u>Conventional Heads</u>		
Consortium	₹10,000/-	₹30,000/-
Last Rites Expenses/Funeral expenses	₹5,000/-	₹10,000/-
Loss of Estate	NIL	₹15,000/-
<u>Total</u>	₹13,35,000/-	₹31,79,330/-
Less – Compensation already awarded by Motor Accident Claims Tribunal		(-) ₹13,35,000 /-
<u>Enhanced Compensation</u>		₹18,44,,330/-

Hence, appeal filed by the appellant is allowed. The enhanced amount of compensation i.e. ₹18,44,,330 /- shall be payable alongwith interest at the rate of 7.5% p.a. from the date of claim petition till the payment.

28.05.2018

Pawan

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No