

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

FAO No. 5781 of 2014

Date of decision : September 27, 2018

Sudesh Kumari and another

..... Appellants

v.

Phool Singh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Rajesh Hooda, Advocate
for the appellants.

Mr. Sukhdarshan Singh, Advocate
for respondent No.3.

Ajay Tewari, J (Oral)

This appeal has been filed for enhancement of compensation.

Brief facts are that on 2.2.2012 at about 9.30 AM, when deceased Mohit was getting down from the offending bus at Hisar bye pass chowk, Rohtak, its driver suddenly started the bus and as a result of this, the deceased was crushed by its back wheel, and expired on the way to the hospital. Hence, the claim petition was filed.

The Tribunal held the driver of the offending bus responsible for causing the accident. The deceased was unmarried boy. His income was taken to be ₹ 4500/- and after applying multiplier of 18, total compensation assessed was ₹ 5,00,000/- including ₹ 4,000/- for transportation of body and ₹ 10,000/- for funeral expenses.

Counsel for the appellants has argued that the Tribunal has wrongly disbelieved the testimony that the appellant was working as a supervisor. As per him, documents Ex.P5 to Ex.P26 were the copies of the attendance register for a period of almost two years, and the owner of the poultry farm had also appeared to prove the same.

I have gone through the documents and shown them to counsel for the Insurance Company. In my opinion, the Tribunal was wrong in completely disregarding the same because they show daily attendance of the deceased at the poultry farm for a period of almost two years. In these circumstances, I hold that the deceased was working as a supervisor. However, still his monthly salary cannot be said to be proved at ₹ 7500/- but in any case he can be taken to be a skilled labourer. At the relevant date, wages of a skilled labourer in the State of Haryana were ₹ 5497/-. I take ₹ 5500/- as salary of the deceased.

Counsel for the appellants has further argued that the Tribunal erred in not granting any future prospects. As per him, in view of the judgment of the Supreme Court in National Insurance Company Limited vs Pranay Sethi and others, 2017(4) RCR (Civil) 1009, 40% had to be awarded on account of future prospects. Counsel for the Insurance Company is not in a position to deny this. Consequently, I direct that future prospects of 40% be granted in this case.

Counsel for the appellants has further argued that under conventional heads, only a sum of ₹ 14,000/- has been awarded. In view of the subsequent judgment of the Supreme Court in Sureshchandra Bagmal Doshi & Anr v. New India Assurance Co. Ltd & others, 2018(2) RCR (Civil) 841, I grant ₹ 56,000/- more under the conventional heads.

Counsel for the appellants has further argued that in view of the latest decision of the Supreme Court in Civil Appeal No.9581 of 2018, Magma General Insurance Company Ltd vs Nanu Ram @ Chuhru Ram and others, decided on 18.9.2018, interest @ 12% pa has to be granted. Counsel for the Insurance Company is not in a position to dispute this also. Consequently, I award interest @ 12% pa on the entire amount of compensation from the date of the claim application till the date of payment.

Counsel for the appellants has further argued that in Magma General Insurance Company Ltd's case (supra), the Supreme Court, after discussing Pranay Sethi and others' case (supra) has awarded a sum of ₹ 40,000/- each to the father and unmarried sister of the unmarried deceased boy towards loss of filial consortium. In the present case, the father of the deceased had died 14 years ago and there was a minor brother of the deceased. Counsel for the Insurance Company is not in a position to deny this fact. Consequently, I award a sum of ₹ 40,000/- for loss of filial consortium. Rest of the Award shall remain unchanged. This appeal stands disposed of.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

September 27, 2018
'kk'

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No