

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO-6241-2014 (O&M)

Date of Decision : 29.10.2018

Suman and others

..... Appellants

Versus

Waryam Chand and others

.... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr. Divya Sarup, Advocate
for the appellants.

Mr. G.S. Ahlawat, Advocate
for respondent No.3.

AJAY TEWARI, J. (ORAL)

This appeal has been filed for enhancement of compensation and for modifying the award dated 17.01.2014 awarding compensation of Rs.10,97,000/- alongwith interest @ 7.5% p.a. on account of death of Baljeet @ Sonu in a motor accident which took place on 02.07.2012.

Since the limited point of quantum has been urged further detailed reference to the facts is not required.

Counsel for the claimants-appellants has argued that the deceased was a driver and as per the Minimum Wages Act his income could not be less than Rs.5000/- p.m. in the year 2012. Counsel for the respondent No.3-insurance company has very fairly accepted this fact.

Consequently, I hold that the income should be taken as Rs.5000/- p.m.

Counsel for the respondent No.3 has pointed out that future prospects of 50% have been wrongly granted by the Tribunal and it could not be more than 40% as per the judgment of the Supreme Court passed in ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009***. Counsel for the appellants is not in a position to deny this fact. Consequently, I hold that future prospects of 40% has to be added instead of 50%.

Counsel for the respondent No.3 has further pointed out that as per the judgment of Pranay Sethi's case (supra) only an amount of Rs.70,000/- has to be awarded under the conventional heads but in the present case an amount of Rs.1,25,000/- has been awarded. On the other hand, counsel for the appellants has argued that the appellants No.2 to 4 and respondent No.5 has also to be granted an amount of Rs.40,000/- each towards filial consortium in view of the judgment of the Supreme Court in the matter of ***Magma General Insurance Company Ltd., Vs. Nanu Ram @ Chuhru Ram & ors., Civil Appeal No.9581 of 2018 arising out of SLP (Civil) No.3192 of 2018, decided on 18.09.2018***. I find merit in both the arguments. Consequently, under the conventional heads the total amount of Rs.1,60,000/- is awarded to appellants No.2 to 4 and respondent No.5 in equal shares towards filial consortium. However, an amount of Rs.55,000/- shall be deducted under this head in lieu of excess amount already awarded by the Tribunal.

I further find that the interest of 7.5% p.a. which has been awarded by the Tribunal is very low. Consequently, I hold that the entire compensation amount be given alongwith interest @ 12% p.a. from the date

of filing of the claim petition till the date of payment in view of the judgment of the Supreme Court in the matter of Magma General Insurance Company Ltd.'s case (supra).

Appeal stands disposed of in the above terms.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

October 29, 2018

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**(AJAY TEWARI)
JUDGE**

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No