IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM-16744-CII-2015 in/and
FAO-5322-2015
Date of Decision:-18.5.2018

Smt. Sunila and others … Appellants

Versus

Saurabh Chug and others ... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Navneet Singh, Advocate for the appellants.

Mr. R.C. Gupta, Advocate for respondent No.3.

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GURVINDER SINGH GILL, J.(ORAL)

CM-16744-CII-2015

This is an application under Section 5 of Limitation Act for condonation of delay of 184 days.

In view of the reasons mentioned in the application, the same is allowed. Delay of 184 days in filing of the appeal is hereby condoned.

The application stands disposed of.

FAO-5322-2015

The claimants Smt. Sunila alongwith her two minor children and her parents-in-law have filed this appeal challenging award dated 28.8.2014 passed by Motor Accident Claims Tribunal, Sonepat (hereinafter referred to as *'the Tribunal'*) seeking enhancement of compensation as awarded by the Tribunal on account of death of her husband Surender Singh in a vehicular accident, which occurred on 10.1.2013.

The case set up by the claimants is that on 10.1.2013, when deceased Surender Singh had gone for a morning walk and had reached in front of House No.478, Sector-14, Sonepat then a Santro Car bearing registration No.HR-12R-7677 driven by respondent No.1 at a very high speed and in a rash and negligent manner came there and dashed against the deceased Surender Singh as a result of which, the deceased fell down and ultimately expired. The claimants asserted that deceased was serving as a clerk in CRA College, Sonepat and was getting a handsome salary apart from having an income of about ₹ 4 lacs per annum from agriculture. The claimants thus prayed for compensation to the tune of ₹ 70 lacs along with interest @18% per annum. The claim petition was resisted on behalf of the respondents.

The learned Tribunal, while holding that the accident in question had occurred due to rash and negligent driving on part of the driver of the offending vehicle, awarded compensation to the claimants to the tune of ₹ 21,20,103/- alongwith interest @ 7.5% vide impugned award, which has been challanged by way of filing the present appeal.

The learned counsel for the claimants, while assailing the impugned award, has submitted that the learned Tribunal, while assessing the compensation, has not taken into account the prospects of increase in income in future and has cited judgment of Hon'ble the Apex Court in *National Insurance Company Limited v Pranay Sethi and others, 2017 S.C.C. 1270.* The learned counsel has further submitted that even the income of the deceased has not been assessed appropriately and although there was specific and categoric evidence to the effect that his salary was ₹ 19,373/-

per month but the same has been taken to be ₹ 17,159/- per month on the ground that there were some statutory deductions without there being any evidence of such deductions.

I have considered the aforesaid submissions and have also perused the impugned award.

As far as the question regarding assessment of the inocme of the deceased is concerned, the deceased was working as a clerk in a reputed college i.e. CRA College, Sonepat. The claimants have examined PW-3 Rajbir Singh, Head Clerk of the said college, who on the basis of the record, deposed that in the month of July 2012, the deceased had drawn a salary of ₹ 19,373/- per month. A perusal of the salary slip and the last pay certificate i.e. PW-3/B and PW-3/C, respectively, indicates that after deductions, the carry home salary was ₹ 17,159/-. Bearing in mind that there must have been some deductions towards income tax, I do not find any infirmity in the findings of the learned Tribunal in taking the monthly income of the deceased as ₹ 17,159/-.

However, I do find that the learned Tribunal has not awarded any amount towards liklihood and prospects of increase in income in future. As per the dictum of Hon'ble the Apex Court in *National Insurance Company Limited v Pranay Sethi and others, 2017 S.C.C. 1270* and bearing in mind the age of the deceased which has been assessed as 48 years, an amout equal to about 25% ought to be added to the income towards "future prospects". By adding the same, the amount works out to ₹ 21,449/- (17,159 + 25%=21,499). After deducting 1/4th towards the personal expenses, the monthly dependency of the claimants works out to

₹ 16,087/- per month. In other words, the annual dependency works out to ₹ 1,93,044/- (16,087 X 12=1,93,044).

As regards the application of multiplicand, the deceased was aged about 48 years. Bearing in mind the dictum of Hon'ble the Supreme Court in *Sarla Verma & Ors. vs Delhi Transport Corp. & Anr. 2009(3) R.C.R. (Civil) 77*, a multiplier of 13 should be applied, as has been correctly applied by the learned Tribunal. Thus by applying the mulplicand of 13, the amount works out to ₹ 25,09,572/- (1,93,044 X 13=25,09,572). In addition to the aforesaid assessed amount, the claimants including widow are also entitled to an amount of ₹ 40,000/- towards loss of consortium, ₹ 15,000/- towards loss to estate and ₹ 15,000/- on account of funeral expenses. By adding the said amount to the above assessed compensation, the total compenstion works out to ₹ 25,79,572/-.

Accordingly, the impugned award is modified as regards the quantum and the claimants and respondents No.4 and 5 are held entitled to compensation to the tune of ₹ 25,79,572/- alongwith interest @ 7.5% from the date of filing the claim petition till its realisation, to be shared by the claimants and respondents No.4 and 5 in the same proportion as awarded by the learned Tribunal.

All the respondents shall pay the compensation jointly and severally. The appeal stands accepted with the aforesaid modification.

18.5.2018 **(Gurvinder Singh Gill)**
pankaj **Judge**

Whether speaking /reasoned Yes / No
Whether Reportable Yes / No