

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 796 of 2014
Date of decision:03.07.2018

Angoori Devi and Others

...Appellants

Vs.

Kuldeep and Others

...Respondents

CORAM:HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Sagar Aggarwal, Advocate
for the appellants.

Mr. R.C. Gupta, Advocate
for respondent No. 3-Insurance Company.

LISA GILL, J.(ORAL)

The appellants seek enhancement of the amount awarded by learned MACT, Sonipat vide award dated 10.10.2013 on account of the death of Partap Singh in a Motor Vehicle Accident. The claimants-appellants are the widow and four children of the deceased, three of the children being minor.

The claimants filed petition under Section 166 of Motor Vehicle Act, 1988 (in short "Act") seeking compensation on account of death of Partap Singh Son of Baru Khan who was the Husband/father of the claimants. He lost his life in a motor vehicle accident which took place on 03.10.2010. FIR No. 398, dated 03.10.2010 under Sections 279, 337 IPC and 304A, was registered at Police Station Gohana City, Sonapat in this respect. Accident in question was caused due to the rash and negligent driving of the offending motor-cycle by respondent No. 1-Kuldeep Singh.

Specific finding of the learned Tribunal in this regard has since attained

finality. Learned Tribunal awarded a sum of ₹ 5,24,000/- to the claimants along with interest at the rate of 7.5% per annum from the date of filing of the petition till realisation. It is not in dispute that the deceased was an ex-serviceman aged about 43 years at the time of accident.

Learned counsel for the appellants contends that the learned Tribunal has wrongly assessed the income of the deceased at ₹ 4,000/- per month. It is submitted that the deceased, aged about 43 years was an Ex-serviceman. There is evidence on record regarding the deceased getting a pension of ₹ 6146/- per month. Furthermore he was working with a private security company besides cultivating his land. Reference is made to the Jamabandi for the year 2007-08, Exhibit P-8 which reflects the deceased to be the owner of about 32 kanals of land. Learned counsel for the appellants refers to Exhibit P-6 which is the 'Combined certificate of discharge and recommendations for civil employment' issued by the Army authorities. Recommendation for civil employment is mentioned as 'combatants'. It is further pointed out that the deceased had received the Videsh Sewa Medal award as well as Special Security Service award for services rendered in Sri Lanka. The deceased also received 9 years long Service Medal and Suraksh to Special Service Medal COP besides Rakshak (J&K) S.S. Medal W/C, Manipur. His character was assessed as exemplary at the time of retirement/discharge. Though there is no evidence of the deceased being employed with the private security available on record, it is contended that the learned Tribunal has erred in ignoring the pension of the deceased while assessing his income. Moreover, nothing has been awarded in respect to compensation for loss of future prospects of the deceased in view of the judgment of Hon'ble Supreme Court in ***Lal Dei & Ors. Vs. Himachal Road***

Transport 2007(8) SCC 319 and ***National Insurance Company Ltd. Vs. Pranay Sethi & Ors. 2017(4) RCR Civil 1009***. It is thus prayed that the compensation awarded to the claimants be enhanced.

Learned counsel for the Insurance Company while refuting the claim, submits that there is no evidence to show that the deceased was in fact working with a private security Company though it is not disputed that he was getting pension @ ₹ 6146/- per month. There is no dispute regarding the certificate exhibit P-6 and Jamabandi exhibit P-8 though learned counsel for the Insurance Company has argued that the land in question is being cultivated by one of the major sons of the deceased therefore at best the claimants can be entitled to loss of services of a Manager. It is submitted that sufficient and reasonable compensation has been awarded to the claimants. There is no scope for any enhancement, thus this appeal be dismissed.

I have heard learned counsel for the parties. It is not in dispute that the deceased was an ex-serviceman as per certificate issued by the Army authorities, Exhibit P-6. Learned Tribunal has wrongly concluded that the family pension which may be afforded to the claimants should be deducted while calculating the dependency. In this regard reference can be made to the decision of the Hon'ble Supreme Court in ***Lal Dei & Ors. Vs. Himachal Road Transport case(supra)***. It has been held by the Hon'ble Supreme Court in ***Reliance General Insurance Co. Ltd. Versus Shashi Sharma and Others 2016 1975 SCC627*** that benefit of family pension should remain unaffected and should not be deducted from the compensation to be awarded.

In the facts and circumstances of the case, income of the deceased

is assessed as ₹10,000/- per month. An increase of 25% is to be afforded on account of loss of future prospects in view of the guidelines laid down by the Hon'ble Supreme Court in Praney Sethi's case as the deceased was admittedly 43 years of age at the time of accident. Deduction of 1/4th is to be applied in view of the number of claimants/dependents. Multiplier of 14 has been rightly applied by learned Tribunal. The amount of compensation to which the claimants are entitled is reworked as under:-

Income of the deceased	10,000/- per month
Future Prospects	25% = 2500/- 10,000+2500 = 12,500/-
Income after Deduction	1/4 th 12500-3125=9375/-
Multiplier	14
Dependency	9375x14x12 =15,75,000/-
Loss of Consortium	40,000/-
Loss to Estate	15,000/-
Funeral expenses	15,000/-
Total	16,45,000/-

The claimants are thus entitled to compensation of ₹16,45,000/- instead of ₹5,24,000/- with interest at the rate of 7.5% per annum from the date of filing of the petition till realisation. Needless to say the amount already deposited shall stand deducted. Manner and ratio of disbursement as directed by the Tribunal shall enure.

With the said modifications in the amount of compensation awarded, the present appeal is disposed of.

July 03, 2018
Poonam (II)

(LISA GILL)
JUDGE

Whether speaking/reasoned: Yes
Whether reportable: No