IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.6493 of 2015 (O&M)
Date of decision:25.09.2018.

Kaliya Devi

...Appellant

Versus

Jasmail Singh and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Raj Kumar Rana, Advocate for the appellant.

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

LISA GILL, J.

This appeal has been filed by the claimant/appellant seeking enhancement of the compensation awarded to her by Motor Accident Claims Tribunal, Patiala (`Tribunal' for short) vide award dated 22.12.2014 on account of death of Surinder Singh in a motor vehicle accident on 22.11.2011.

The claimants, who are the parents of the deceased, filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of the death of Surinder Singh in a motor vehicle accident which took place on 22.11.2011. FIR No.156 dated 23.11.2011 was registered under Sections 279,304-A and 427 IPC at Police Station City, Kharar. It was pleaded that the deceased, at the time of his death, was doing the work of submersible motor repairs with M/s Khalsa Submersible Repair Works. His monthly income was stated to be Rs.10,000/-. He was 25 years old at the time of accident and unmarried at that time. Compensation was thus prayed for.

The learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place due to the rash and negligent driving of offending vehicle by its driver. There is no dispute regarding the above said finding of the learned Tribunal on this issue, which has attained finality. Learned Tribunal further assessed the age of the deceased to be 25 years at the time of his death. The learned Tribunal assessed the income of the deceased as Rs.4000/- per month. Deduction of 50% was effected towards the personal expenses. After applying a multiplier of 18, total dependency was assessed at Rs.6,48,000/-. Another sum of Rs.25000/- was awarded towards funeral expenses. Thus, claimants were held entitled for total compensation of Rs.6,73,000/- along with interest @ 7.5% per annum from the date of filing of claim petition till realisation.

Learned counsel for the appellants argues that at the time of accident in 2011 minimum wages of even a semi skilled labourer in the State of Punjab was Rs.4773/-. The deceased was engaged as a mechanic of submersible motors. There is no dispute regarding the multiplier applied and deduction of 50% in income towards personal expenses, however, increase in income on account of future prospects in view of National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009 is sought. It is thus prayed that this appeal be allowed and compensation awarded be enhanced.

Learned counsel for the Insurance Company refutes the above said arguments while submitting that the impugned award has correctly been passed and no ground for any enhancement is made out.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

There is merit in the argument of learned counsel for the appellant that income of the deceased should be assessed, at least as per the minimum wages of a semi-skilled labourer in the State of Punjab in 2011 at the time of accident. There is nothing on record to rebut the stand of the claimant that the deceased was a mechanic repairing submersible pumps. Even if the quantum of income could not be proved, it is just and appropriate to assess the income of the deceased as Rs.4773/- i.e. the minimum wage of a semi-skilled labourer. Age of the deceased i.e. 25 years and multiplier applied are not in dispute. In view of the guidelines laid down by the Hon'ble Supreme Court in National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009, 40% increase in income has to be afforded on account of future prospects. Deduction of 50% towards personal expenses has rightly been effected. Multiplier of 18 has rightly been applied. The claimants are entitled to Rs.15,000/- each for loss of estate and funeral expenses instead of Rs.25,000/- towards funeral expenses.

Appellant-claimant is, thus, entitled to compensation, which is re-worked as under:-

Sr.No.	***Heads of Claim***	
1.	Income	4773 p.m. i.e., 57276/- per annum
2.	Total income after addition at the rate of 40% on account of future prospects	57276+22910 (57256x40%) = 80,186/-
3.	Income after deduction of 50% on account of personal expenses	80,186–40,093 (80,186/2) = 40,093/-

4.	Total dependency after applying a multiplier of 18	(40,093 **x**18) =7,21,674/-
5.	Loss of estate	15,000/-
6.	Towards funeral expenses	15,000/-
Grand Total		7,51,674/-

The amount of compensation already awarded to the appellant, needless to say, shall stand deducted from the amount calculated as above. Appellant shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization.

With the abovesaid modification in the award dated 22.12.2014, present appeal is disposed of.

(LISA GILL)
JUDGE

September 25, 2018
Ishwar

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No