IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.860 of 2014 (O&M)
Date of decision : 27.09.2018

Baljit Kaur and others

...Appellants

Versus

Shakti Parkash and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. D.S. Gurna, Advocate for the appellants.

Mr. Gurmeet Singh, Advocate for respondent Nos.2 and 3.

Mr. Suvir Dewan, Advocate for respondent No.4.

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ANIL KSHETARPAL, J. (ORAL)

The claimants are in the appeal seeking enhancement of the compensation on account of the death of their sole bread earner i.e. Rajwinder Singh, aged about 34 years died on 31.05.2010 in a motor vehicular accident.

Only issue which needs consideration is that what is the appropriate compensation payable to the claimants. Five claimants namely a widow, three minor children and mother filed the claim petition. It has been proved on file that late Sh. Rajwinder Singh was running a Photo Studio in sub-urban area of Khamanon, District Fatehgarh Sahib.

Although, the claimants have relied upon the income tax return which was filed on 19.02.2010 depicting the income of the deceased as ₹1,26,500/- which works out to ₹10,541/- per month.

Learned Motor Accident Claims Tribunal ignored the income tax return on the ground that this is the only one income tax return which has been filed. No return prior thereto has been produced in evidence. In the considered view of this Court, the approach of the Tribunal was erroneous. Once, it is proved on file that income tax return was submitted on 19.02.2010, i.e. during the lifetime of Rajwinder Singh, his income to that extent could not be doubted. Any assessee, whose income comes within the income on which the income tax is payable is required to file a return. On 19.02.2010, Rajwinder Singh had no reason to inflate his income or pay income tax on income which did not exist. Therefore, the Tribunal committed an error in ignoring the aforesaid income tax return. Hence, this Court assesses the income at ₹10,550/- per month i.e. the rounded figure. As the deceased has left behind five dependents, therefore, deduction on account of own expenses of the deceased has rightly been reduced by 1/4th of the income assessed.

Apart therefrom, as per the judgment of Constitution Bench of Hon'ble the Supreme Court in case *SLP No.25590 of 2014 titled as National Insurance Company Ltd. Vs. Pranay Sethi and others,* 40% addition on account of future prospects is to be made as the age of the deceased was below 40 years, ₹70,000/- is added on account of conventional heads i.e. ₹15,000/- towards funeral expenses, ₹40,000/- towards loss of consortium, ₹15,000/- towards loss of estate, whereas the Tribunal has only awarded ₹8,000/- towards funeral expenses, ₹10,000/- for loss of consortium and

₹10,000/- for loss of estate.

Accordingly, the compensation payable is re-worked as under:-

Heads	**Awarded by the Tribunal**	**Awarded by the High Court**
Monthly income	₹8,000/- per month	₹10,550/- per month
(+) future prospects	NIL	40% or ₹4220/-
Total monthly income	₹8000/- per month	₹14,770/- per month
1/4th deducted towards personal expenses of deceased	₹2000/-	₹3692/-
Monthly dependency	₹6000/-	₹11,078/-
Annual dependency	₹6000 x 12 = ₹72000/-	₹11078 x 12 = ₹1,32,936/-
Multiplier	16	16
Loss of dependency	₹72000/- x 16 = ₹11,52,000/-	₹1,32,936/- x 16 = ₹21,26,976/-
Conventional Heads		
Loss of Estate	₹10,000/-	₹15,000/-
Funeral Expenses	₹8000/-	₹15,000/-
Consortium	₹10,000/-	₹40,000/-
Total Compensation	₹11,80,000/-	₹21,96,976/-
Enhanced Compensation = Compensation awarded by High Court (-) Compensation awarded by MACT	₹10,16,976/- {₹21,96,976 /- (-) ₹11,80,000/-}	

The enhanced amount of compensation i.e. ₹10,16,976/- shall be payable with interest at the rate of 7.5% p.a. from the date of filing of the claim petition till realization.

In view of the above, the present appeal is disposed of.

27.09.2018 **(ANIL KSHETARPAL)**
Pawan **JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No