IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 9405 of 2014 (O&M)
Date of decision : August 14, 2018

Jagdish Kaur and others .....Appellants

Versus

Jarnail Singh and others ....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Rakesh Kumar, Advocate for the appellants.

Mr. Harish Goyal, Advocate for respondents No. 1 and 2.

Mr. M.B. Jain, Advocate for respondent No. 3.

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LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal, Kapurthala (hereinafter referred to as the 'Tribunal') on account of death of Rajinder Singh vide award dated 31.07.2014.

Brief facts necessary for adjudication of the case are that the applicant-claimants i.e. widow, two minor children and mother of the deceased – Rajinder Singh filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Rajinder Singh on 10.04.2013 in a motor vehicle accident caused due to rash and negligent driving of the offending vehicle i.e. truck bearing registration No. PB08-A-6772 driven by respondent No.1. FIR No. 54 dated 12.04.2013 under Sections 279, 304-A, 427 IPC was registered at Police Station Kotwali, Kapurthala in respect to the accident. The deceased, aged 37 years at the time of the accident was stated to be doing agricultural work besides being engaged in diary farming. The deceased was averred to be earning a sum of ₹50,000/- per month.

Learned Tribunal on consideration of facts and evidence on record awarded a sum of ₹7,93,625/- alongwith the interest at the rate of 9% per annum. Income of the deceased was assessed as ₹6,000/- per month. Deduction of 1/3th was effected, keeping in view the number of dependants. Multiplier of 15 was applied. A sum of ₹5,000/- was awarded on account of loss of consortium, ₹10,000/- for transportation charges and last rite ceremonies as well as a sum of ₹58,625/- on account of medical bills was awarded.

Learned counsel for the appellants submits that the deceased was highly qualified, thus, his income was assessed on the lower side by the learned Tribunal. It is further submitted that in terms of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, loss of future prospects at the rate of 40% should be afforded. It is further submitted that meagre compensation has been awarded under the conventional heads. Deduction of 1/4th (instead of 1/3rd) should be effected. Multiplier of 15 has been applied correctly. It is, thus, prayed that compensation awarded to the claimants be enhanced.

Learned counsel for the respondent - insurance company while refuting the arguments raised submits that adequate compensation has been awarded by the learned Tribunal which calls for no further enhancement. It is submitted that the compensation has been rightly assessed, thus, impugned award dated 31.07.2014 be upheld.

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

There is no dispute regarding the loss of life of Rajinder Singh in motor vehicle accident, which took place on 10.04.2013 due to rash and negligent driving of the offending vehicle by respondent No. 1. Finding of the learned Tribunal on this issue has attained finality. As per the copy of post mortem report (Ex. A1), age of the deceased was 38 years at the time of the accident.

Keeping in view the facts and circumstances, it is considered appropriate to assess the income of the deceased as ₹6,000/- per month. In view of the guidelines in the judgment of the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), future prospects at the rate of 40% are required to be awarded in view of the age of the deceased (38 years), which takes the income of the deceased to ₹8,400/- per month. Deduction of 1/4th instead of 1/3rd is to be applied as number of dependants is four (4), thereby rendering income of the deceased to be ₹6300/-(8400-2100) per month. Multiplier of 15 is correctly applied by the learned Tribunal. Annual dependancy of the claimants is, thus, assessed as ₹11,34,000/- (₹6300x12x15). The claimants are entitled to ₹15,000/- each for funeral expenses and loss of estate, claimant – widow is also entitled to ₹40,000/- on account of loss of consortium. Claimants are, thus, entitled to total compensation of ₹12,62,625/- instead of ₹7,93,625/-.

Claimants are, thus, entitled to enhanced compensation detailed as under:-

Loss of dependency (₹6300x12x15)	₹11,34,000/-
Loss of consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Medical Bills	₹58,625/-
Total	₹12,62,625/-

Needless to say, the amount of compensation already awarded to the appellants shall stand deducted from the amount calculated as above. Appellants 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.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants shall enure.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

(Lisa Gill)
Judge

August 14, 2018
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No