

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

239

FAO-7062-2017 (O&M)
Date of Decision : 14.9.2018

Rekha

....Appellant

vs.

Balwinder Singh alias Kakka and others

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Darshan Gulati, Advocate
for the appellant.

Mr. Lalit Garg, Advocate
for respondent No.3.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the award dated 10.3.2014 passed by the Motor Accident Claims Tribunal, Kaithal awarding compensation of Rs. 4,21,224/- alongwith interest at the rate of 9% per annum on account of death of Balbir in an accident.

Counsel for the claimant asserts that firstly the income of the deceased was taken on the lower side because on that date as per the provisions of the Minimum Wages Act, the minimum wages for a unskilled labourer was Rs. 4348/-. The Tribunal erred in taking the income of the deceased as Rs.1,200/- per month.

Counsel for the insurance company is not in a position to deny this. Consequently, I hold the income of the deceased as Rs. 4,348/- per

month as per the provisions of the Minimum Wages Act in Haryana.

Second argument raised by the counsel for the appellant is that in view of the Constitution Bench judgment of the Supreme Court in the matter of *National Insurance Company Ltd. vs. Pranay Sethi and others*, **2017(4) RCR (Civil)1009** 25% future prospects have to be granted. Counsel for the respondent No.3 is not in a position to deny this fact. Consequently, I award 25% future prospects.

Counsel for the respondent however points that deduction should be $\frac{1}{4}$ instead of $\frac{1}{5}$ as father could not be taken as a dependent. Counsel for the appellant accepted this fact. Therefore, deduction has to be $\frac{1}{4}$ instead of $\frac{1}{5}$.

Learned counsel for the respondent states that a sum of Rs. 90,000/- excess has been granted under the conventional heads which is against the maximum limit of Rs. 70,000/- which has been prescribed in Pranay Sethi's case (supra). Therefore, Rs.90,000/- has to be reduced. Ordered accordingly.

Counsel for the appellant states that the Tribunal has awarded nothing for special diet and attendant. Counsel for the respondent has accepted this fact. Consequently, I award Rs. 60,000/- for special diet and attendant.

The interest rate on enhanced amount would be at the rate of 7.5% from the date of filing of claim petition till the date of payment.

Out of the enhanced amount 10% would go to the each respondents No.4 to 8 and 50% would go to the appellant. The share of the minors be put in a fixed deposit till they attain the age of the majority.

The appeal stands disposed with the abovesaid modifications.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

14.9.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No