218

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 2031 of 2001 (O&M)
Date of decision: 27.11.2019

Amarjit Singh and others **...Appellants**

V/s.

Balwant Ram and others **...Respondents**

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: None.

***

RITU BAHRI, J. (Oral).

The appellants have come up in appeal against the award of the Tribunal dated 09.08.2000 whereby they have been awarded compensation of Rs.2,73,680/- on account of death of Sarwan Singh, who died in a road accident which took place on 20.11.1997.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 20.11.1997 Sarwan Singh (deceased) was returning from village Dadok, District Bilaspur (H.P.) to his village on a scooter and Baldev Raj son of Jagan Nath, resident of Bibi Haveli, Ropar was sitting on the pillion seat of the scooter. At about 7:30 p.m., when they reached near village Bara Pind and were on the Ropar-Nangal road and going on moderate speed on the left side of the road, an oil tanker bearing registration No.HP-24-3242 (hereinafter referred to as the offending vehicle), came there from the side of Ropar. The tanker was being driven in a very rash and negligent manner by the driver. While taking the tanker to a wrong side, he struck the tanker against the scooter of the deceased, as a result of which both Sarwan Singh and Baldev Raj fell down and received multiple and grievous injuries. Sarwan Singh succumbed to his injuries. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

Finding on issue No. 1 is not in dispute that the accident took place on account of negligent driving by the driver of the offending vehicle. This finding has been rightly given in favour of the claimants keeping in view FIR No. 137 dated 21.11.1997 under Sections 279 and 304-A IPC was registered at Police Station Sadar Ropar against respondent No.1 on the statement of Baldev Raj and post mortem report (Ex.P1) according to which the cause of death was due to shock and haemorrhage and inury to vital organ i.e. brain.

The deceased was 60 years of age at the time of accident as per post mortem report (Ex.P1). Keeping in view the copies of assessment of income tax (Ex.P4, P5 and P6), the net taxable income was Rs.27,150/- during the year 1996-97, the total taxable income was Rs.99,200/- during the year 1997-98 and for the year 1998-99, it was Rs.75,370/-. The Tribunal had assessed annual income of the deceased as Rs.50,000/- and assessed the following compensation:-

Sr. No.	HEADS	CALCULATIONS
(i)	Annual Income	Rs.50,000/-
(ii)	1/3rd of (i) deducted as personal expenses of the deceased	50,000-16,667=Rs.33,333 (rounded upto Rs.33,335/-)
(iii)	Compensation after multiplier of 8 is applied	33,335X8=Rs.2,66,680/-
(iv)	Loss of consortium	Rs.5,000/-
(v)	Funeral expenses	Rs.2,000/-
	TOTAL COMPENSATION AWARDED	**Rs.2,73,680/-**

Hence, the claimants were found entitled to total compensation of Rs.2,73,680/- along with interest @ 12% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimants-appellants have preferred the present appeal.

REASSESSED COMPENSATION

The fact of accident is admitted and proved. It stands established that the deceased has died as a result of the accident. Finding of negligence has rightly been given by the Tribunal and it does not require any interference on that account.

As per the copies of assessment of income tax (Ex.P4, P5 and P6), the net taxable income was Rs.27,150/- during the year 1996-97, the total taxable income was Rs.99,200/- during the year 1997-98 and for the year 1998-99, it was Rs.75,370/-. The Tribunal had assessed annual income of the deceased as Rs.50,000/- per annum, keeping in view the variation in the income shown in the assessment, which is on lower side. In para 16 of the award, it has been observed that the net income of the deceased comes to near about Rs.72,000/- per annum for threee years period i.e. 1995-96, 1997-98 and 1998-99. Hence to meet the ends of justice, the compensation is hereby reassessed keeping in view the annual income of the deceased as Rs.72,000/- per annum and the judgments passed by Hon'ble the Supreme Court in ***Magma General Insurance Company Ltd. V/s. Nanu Ram Alias Chuhru Ram and others,*** Civil Appeal No. 9581 of 2018 and ***National Insurance Company Limited Vs. Pranay Sethi and others***, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017) as under:-

Sr. No.	**HEADS**	**CALCULATIONS**
(i)	Annual Income	Rs.72,000/-

(ii)	1/3rd of (i) deducted as personal expenses of the deceased	72,000-24,000=Rs.48,000/-
(iii)	Compensation after multiplier of 8 is applied	48,000X8=Rs.3,84,000/-
(iv)	Funeral expenses	Rs.15,000/-
(v)	Loss of estate	Rs.15,000/-
(vi)	Loss of *filial* consortium	Rs.2,00,000/- (Rs.40,000/- each to all the appellants)
	TOTAL COMPENSATION AWARDED	**Rs.6,14,000/-**
	ENHANCED AMOUNT OF COMPENSATION	**6,14,000-2,73,680=Rs.3,40,320/-**

The enhanced amount of compensation of **Rs.3,40,320/-** shall be payable within a period of two months from the date of receipt of certified copy of this order. The enhanced amount of compensation shall carry interest @ 9% per annum from the date of filing of the claim petition, till its realization, in view of the judgment of Hon'ble the Supreme Court in the case of ***Dara Singh @ Dhara Banjara V/s. Shyam Singh Varma and others,*** Civil Appeal No. 4528 of 2019. Remaining conditions of disbursal of amount shall remain unaltered.

Accordingly, the award stands modified to the above extent and the appeal is allowed. Pending application, if any, also stands disposed of.

(RITU BAHRI)
JUDGE

27.11.2019
Divyanshi

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No