IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2077-2001 (O&M)
Date of decision: 06.02.2019

Asha Rani and others

...Appellants

Versus

Jangir Singh and another

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Gurinder Pal Singh, Advocate
for the appellants.

Ms. Jaideep Kaur, Advocate for
Mr. J.S. Thind, Advocate for respondent No. 1.

Mr. Vinod Gupta, Advocate for respondent No.2.

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H.S. MADAAN, J. (Oral)

On account of death of Jaswant Lal working as Head Constable in Haryana Armed Police, aged about 36 years, in a motor vehicular accident which took place on 22.07.1998, allegedly on account of rash and negligent driving of Tata-407 bearing registration No.HR-39-1039 by its owner/driver Jangir Singh, while Jaswant Lal was going on scooter bearing registration No.PAO-1964 from Village Maujgarh to Mandi Dabwali, Smt. Asha Rani-wife, Vijay Kumar, Ajay Kumar, Raj Kumar-minor sons and Smt. Maya Devi-mother of the deceased had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 against Jangir Singh-owner/driver and National Insurance Company Ltd., Branch Office, Ellenabad, District Sirsa-insurer of Tata-407 in

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question. Formal FIR regarding the accident had been registered. Post mortem examination on the dead body was performed.

Upon notice, both the respondents appeared and offered contest. However, vide award dated 01.09.2000, the claim petition was accepted and compensation of Rs.3,73,000/- along with interest @ 12% p.a., was awarded to the claimants. The amount was ordered to be apportioned amongst them as per the details given in the award. The claimants were dissatisfied with the compensation granted to them and they have filed the appeal before this Court, notice of which was given to the respondents, who have put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

Learned counsel for the appellants has pointed out that though monthly income of deceased was proved on record as Rs.6070/-, the tribunal took his income to be Rs.4600/- only i.e. the basic pay not considering the allowances payable to the deceased and it was so done wrongly by the tribunal.

Learned counsel representing the insurance company in all fairness has stated that the gross salary payable to the deceased ought to have been taken into consideration except the conveyance allowance of Rs.20/-, in that way, the monthly income of the deceased is taken as Rs.6050/-.

It has further been pointed out that since the number of dependents upon the deceased was five, the tribunal fell in error in

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deducting 1/3[rd] of the amount towards personal expenses of the deceased when it should have been to the extent of 1/4[th], in view of the authority by apex Court **Smt. Sarla Verma and others** Vs. **Delhi Transport Corporation and Anr.**, 2009(3) RCR (Civil) 77. This contention of learned counsel for the appellants has got force and is conceded by learned counsel for the respondents. Therefore, the deduction towards personal and living expenses of the deceased is ordered to be taken as 1/4[th].

It has been pointed out that no amount has been added towards future prospects. In view of the ratio of the authority **National Insurance Company Limited** Vs. **Pranay Sethi and others**, 2017 (4) RCR (Civil) 1009, when the deceased had a permanent job and was below the age of 40 years, an addition of 50% to the actual salary of the deceased towards future prospects is to be made. In this case, the deceased was aged about 36 years and was a permanent Government employee, therefore, an addition of 50% of his actual salary is to be made, doing that, it comes out to Rs.9075/-. Deducting 1/4[th] of the amount towards personal expenses, the dependency of claimants comes out to Rs.6086 per month and annual dependency comes out to Rs.81672/- (Rs.6086X12).

It has further been pointed out that the tribunal has used multiplier of 10. But in terms of the judgment Sarla Verma (supra), the multiplier of 15 should have been applied. This contention of learned counsel for the appellants has merit and is not opposed by learned

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counsel for the respondents. Thus, using multiplier of 15, the total compensation comes out to Rs.12,25,080/-(Rs.6086X12X15).

Under the conventional heads, the tribunal has awarded a sum of Rs.500/- towards funeral expenses and for loss of consortium. In view of the judgment of **National Insurance Company Limited** Vs. **Pranay Sethi and others**,(supra), Rs.70,000/- is to be granted under the conventional heads, making it total of Rs.12,95,080/- as Rs.3,73,000/- has already been awarded by the tribunal. Thus, an additional compensation of Rs.9,22,080/- (Rs12,95,080-Rs.3,73,000/-) is awarded to the claimants with interest @ 7.5 p.a., from the date of filing of claim petition till actual realization. The other terms & conditions shall be the same as given in the original award. The appeal is allowed with costs.

06.02.2019 **(H.S. MADAAN)**
sumit.k **JUDGE**

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No

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