IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2571 of 1998 (O&M)
Date of Order: 28.02.2019

Manjit Kaur and others

..Appellants

Versus

Sunil Kumar and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Sangita Dhanda, Advocate,
for the appellants.

Mr. Neeraj Khanna, Advocate, and
Mr. Ravinder Arora, Advocate,
for respondent no.3-Insurance Co.

ANIL KSHETARPAL, J(Oral)

Claimants are in appeal seeking enhancement of the compensation.

Learned Motor Accident Claims Tribunal, Hoshiarpur (hereinafter referred to as 'the Tribunal') has awarded a total sum of Rs.3,74,400/- after assessing the income of the deceased to be Rs.4000/- per month in Indian rupee. Deceased-Jai Pal Singh Walia was residing and working in Canada. In order to prove his income, copy of the income tax record was produced, correctness whereof was duly certified by Consulate General of India, Vancouver (Canada). As per Ex.PC, which is a return filed for the year 1993 i.e. three years before the date of accident, total earning was $60,000, out of which federal taxes were payable amounting to $9446.64 and surcharge whereon was $283.43.

Learned counsel for the appellants has contended that net income has been shown as $54,899. However, if one examines next entry in Ex.PC i.e. the taxable income and profit and loss account attached and the statement which was filed before the authorities, one can safely arrive at a figure that the deceased was having net income of $50,000 per year.

Learned Tribunal has held that since the income tax return could not be explained to him by the counsel, therefore, he has chosen to assess the income at Rs.4,000/- per month in Indian currency. The Tribunal has further held that for the conversion of the Canadian dollars into rupee, no record of rate of conversion of Canadian dollar into rupee has been produced.

This court is of the considered view that both the reasons assigned by the Tribunal are patently erroneous. Once a copy of the Income Tax return attested by Consulate General of India, Vancouver (Canada) has been produced and there was no evidence to the contrary, the learned Tribunal erred in assessing the income at Rs.4,000/- per month. Accordingly, the income of the deceased is assessed at $4200 per month approximately. The deceased has left behind 5 dependents, namely, wife, three minors child and mother.

Keeping in view the aforesaid facts, the appropriate deduction on account of self expenses would be 1/4th.

Learned counsel for the appellants has further submitted that no amount has been awarded on account of funeral expenses, loss of consortium and loss of estate. As per the judgment passed by the Constitution Bench in the case of ***National* Insurance Company Limited vs. *Pranay Sethi and others, JT 2017(10) SC 450***, Rs.70,000/- is the maximum amount, which can be awarded under the conventional heads. She further submitted that at the time of accident, the age of deceased was 38 years, therefore, multiplier of 15 would be applicable.

Keeping in view the aforesaid facts, the compensation payable is re-worked as under:-

Heads	**Compensation awarded by MACT**	**Compensation awarded by High Court**
Monthly Income assessed	4000/-	4200/-
-Deduction 1/3rd	1400/-(1/3rd) = 2600/-	-1050/-(1/4th) = 3150/-
Annual dependency	2600x12=31,200/-	3150x12=37,800/-
Multiplier	31200x12=3,74,400/-	37,800x15= 5,67,000/-
Conventional Heads		
-Loss of estate	NIL	15,000/-
-consortium	NIL	40,000/-
-Funeral Expenses	NIL	15,000/-
-Filial Consortium	NIL	40,000/-
Total Compensation	3,74,400/-	6,77,000/-

Compensation Awarded by the High Court : Rs. 6,77,000-00
(-)Compensation Awarded by the MACT : Rs. 3,74,400-00

Enhanced Compensation : Rs. 3,02,600-00

The enhanced compensation shall be paid with interest @ 7.5% from the date of claim petition till payment.

Accordingly, the appeal is partly allowed. The judgment passed by the learned Tribunal is modified. The Executing Court would convert the Canadian currency to Indian rupee at the rate prevalent on the date this appeal is being decided.

February 28, 2019 **(ANIL KSHETARPAL)**
nt **JUDGE**

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