384

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO No.4486 of 2004
Date of Decision : 28.03.2019

Jasmine Kaur and another

Appellants

Versus

Uttar Pradesh State Road Transport Corporation and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Prateek Gupta, Advocate
for the appellant.

None for respondents No.1, 2 and 4.

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AVNEESH JHINGAN, J (Oral):

The award dated 04.05.2004 passed by the Motor Accident Claims Tribunal, Chandigarh [for brevity 'the Tribunal'] has been assailed by the legal heirs of Chander Mohan Singh (deceased) seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 [for brevity 'the Act'].

The facts with regard to the accident are not in dispute. In a motor vehicular accident that took place on 13.04.2002, Chander Mohan Singh, aged 33 years, lost his life. The said accident took place due to the rash and negligent driving of Bus bearing registration No.UP-80D-9918 [hereinafter referred to as 'offending vehicle'].

In the claim proceedings, it was pleaded that the deceased was working as a Human Resource Manager with the Trident Rajnagri Scheme. His Salary Certificate was produced. One Chander Gopal Shukla from employer company, appeared before the Tribunal to prove the Salary Certificate but in his cross-examination, he deposed to the limited extent that Salary Certificate was not prepared by him. It was claimed that monthly salary of the deceased was ₹24,248/-, which was within tax ambit, but no Income Tax Returns were produced. In such circumstances, the Tribunal, by guess work, assessed monthly earning of the deceased as ₹12,000/-; made 1/3rd deduction for self-expenses and applied multiplier of '14'. The Tribunal awarded compensation of ₹13,50,000/- alongwith interest @ 9% per annum.

During the pendency of the appeal, a Civil Miscellaneous Application was filed for placing on record Form-16 for assessment year 2002-03 to establish the annual earning of the deceased and the fact that tax was deducted at source.

Learned counsel for the appellants contends that the income of the deceased has wrongly been assessed, no future prospects have been awarded and multiplier has wrongly been applied. His grievance is that amounts under the conventional heads be awarded as per the decision of the Supreme Court in

National Insurance Company Limited Vs. Pranay Sethi and others AIR 2017 SC 5157.

In order to prove the annual earning of the deceased, certain factual aspects need to be proved, for which further evidence would be required. Form-16 has been produced for the first time in the appeal proceedings, hence a fair opportunity is required to be given to the respondents to verify and rebut the same.

Without expressing any opinion on the merits of the case, the matter only with regard to quantum of compensation is remitted back to the Tribunal to decide the same afresh after affording opportunity to the parties to adduce fresh evidence in support of their claims. Needless to add that the claimants shall be at liberty to produce any other evidence to substantiate the salary claimed by them in the pleadings.

The accident is of year 2002. It is desired that remanded matter be decided expeditiously but not later than six months.

The appeal is disposed of accordingly.

[AVNEESH JHINGAN]
JUDGE

March 28, 2019
pankaj baweja

1. Whether speaking/ reasoned : Yes
2. Whether reportable : No