211 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM-16140-CII-2015 in/and
FAO No.5316 of 2003 (O&M)
Date of Decision: 06.11.2019

Shashi Dhawan and others

.....Appellants

Versus

Bharat and others

........Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Bhag Singh, Advocate
for the appellants.

Mr. Pardeep Goyal, Advocate
for respondent No.3-insurance company.

NIRMALJIT KAUR, J. (ORAL)

CM-16140-CII-2015

For the reasons mentioned in the application, the same is allowed and main appeal is ordered to be listed today and taken up on board today itself.

Main Case

The present appeal has been filed for enhancement of compensation granted vide award dated 06.03.2003, passed by the Motor Accident Claims Tribunal, Ambala (for short, the Tribunal).

While praying for enhancement, learned counsel for the appellants submitted that no future prospects have been granted and the deduction applied is on the higher side, it should be $1/4^{th}$ instead of 1/3rd and multiplier should have been applied 13 instead of 11 taking into account that the age of deceased was 48 years.

Learned counsel for respondent No.3-insurance company is not in a position to dispute the same in view of the well settled proposition of law rendered by Hon'ble the Apex Court in case National Insurance Company Ltd. versus Pranay Sethi and others, (2017) 16 SCC 680.

However, at this stage, learned counsel for respondent No.3 states that the income has been assessed is on higher side, it should have been ₹52,000/- per annum instead of ₹60,000/- per annum.

The said argument has no merit as it is evident from the award that the deceased was an income tax payee and his income tax returns have also been placed on record as Ex.P-6 to Ex.P-8. As per evidence of one of the claimants i.e. wife of deceased, he was paying to his wife almost ₹15,000/- per month to run kitchen. Besides earning from the medical store, he was also doing agricultural work. In these circumstances, this Court finds no reasons to reduce the income as already assessed by the tribunal.

Learned counsel for the parties also agreed that the dependency should be made 3/4th instead of 2/3rd after taking into consideration the entire income i.e. from the medical store as well the agricultural income.

Accordingly, the award is modified, as per the calculation provided under:-

Sr. No.	Head	Amount assessed
1	Income	₹86,000/- per annum
2	Future Prospects	25% (86000 x 25% = ₹21500) ₹86,000 + 21500 = ₹1,07,500/-
3	Deduction	1/4th 1/4th of 107500 = ₹26,875/- 107500 – 26875 = ₹80,625/-
4	Multiplier	13
5	Compensation awarded	80625 x 13 = ₹10,48,125/-
6	Conventional Heads	₹70,000/-
7	Medical expenses	₹80,000/-
8	Total	₹11,98,125/-

Sr. No.	Head	Amount assessed
9	Compensation awarded by the Tribunal	₹7,50,000/-
10	Differences	₹1198125 – 750000 = ₹4,48,125/-

Thus, the enhanced compensation of ₹4,48,125/- be paid to appellants within two months from the receipt of certified copy of this order alongwith 6% interest per annum from the date of filing of claim petition till its realization.

In case the said amount is not paid within two months, the same shall be paid thereafter alongwith 12% interest from the expiry of the period of two months.

The appeal is disposed of accordingly.

(NIRMALJIT KAUR)
JUDGE

06.11.2019
sandeep

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No