

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.4629-2004(O&M)

Date of decision: 15.05.2019

Geeta Devi and others

.....Appellants

versus

Haryana Roadways and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldeep Singh

Present: Mr.Vivek Suri, Advocate for the appellants
Mr.Sandeep Vashisht, DAG Haryana
Ms.Anamika Mehra, Advocate for respondent no.3

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldeep Singh, J. (Oral)

This is an appeal filed by the claimants for enhancement of compensation awarded by the Motor Accident Claims Tribunal, Panchkula (for short, 'the Tribunal') vide award dated 23.7.2004.

The short facts which are required to be noticed for the purpose of disposal of the present appeal are that the deceased Jagtar Singh, who was working as a Clerk in the office of Civil Surgeon, Panchkula, was going to his village Kandiawala, Tehsil and District Panchkula on Haryana Roadways bus bearing Registration Number HR-37-1163 on 26.2.2001. It is alleged that at about 5.30 p.m., when the bus reached near Hafed Office, Panchkula, the bus which was being driven rashly and negligently by its driver. As a result of which, Jagtar Singh fell down from the rear door of the bus. He received head injuries, which proved fatal.

I have heard learned counsel for the parties and have carefully gone through the file.

PW3 Subhash Chand, Clerk in the office of Civil Surgeon, Panchkula proved that the deceased was getting salary of Rs.5382/- per month. His date of birth was 14.1.1969. The Tribunal deducted Rs.1788/- on account of family pension and assessed the income of the deceased as Rs.3600/- per month, from which, 1/3rd was further deducted as personal expenses and while applying multiplier of 16, compensation was calculated at Rs.4,60,800/-. For the loss of consortium and loss of estate and funeral expenses, Rs.10,000/- were allowed. Total compensation to the tune of Rs.4,70,800/- was allowed with 6% per annum interest.

Learned counsel for the appellants has pressed for increase on the following grounds:-

1. Future prospects
2. Conventional heads
3. Wrong deduction of family pension.

So far as future prospects are concerned, in view of the judgment in National Insurance Company Limited versus Pranay Sethi and others, 2017(4) RCR (Civil) 1009, and considering that the deceased was of 32 years of age, 50% future prospects were to be added. Rs.70,000/- under conventional head were to be allowed, which were not allowed.

So far as deduction of family pension to the tune of Rs.1788/- is concerned that was also illegal and has to be corrected.

In view of the aforesaid discussion, the compensation is re-calculated as under:-

In monthly salary of Rs.5382/-, 50% future prospects are to be added, which comes to Rs.2691/-. The total comes to Rs.8073/-, from

which, 1/3rd is to be deducted as personal expenses i.e. Rs.2691 and net dependency comes to Rs.5382/-. The amount of compensation comes to RS.5382x12x16 = Rs.10,33,344/-. Rs.70,000/- are allowed under the conventional head. Since, the deceased left behind two minor children, in view of Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram, 2018 (4) R.C.R. (Civil) 333, Rs.40,000/- each are allowed to them for loss of consortium i.e. Rs.80,000/-. The total amount of compensation comes to Rs.11,83,344/-. Same is accordingly allowed. Since, rate of interest is also on the lower side, 7% per annum interest is also allowed on the compensation from the date of filing of claim petition till realization.

The appeal is accordingly allowed.

15.05.2019

gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:

Yes

Whether Reportable:

No