IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1639 of 2006
Date of decision: 17.09.2019

Smt. Shashi Kumar and others

.......Appellants

versus

Wazir Singh and others

......Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. D.R. Bansal, Advocate, for the appellants.
Mr. R.N. Singal, Advocate, for respondent No.3.

RAMENDRA JAIN, J. (ORAL)

Through this appeal, widow, two sons, mother and sister of deceased Rajesh Kumar, claimants of MACT case No.19 of 2002 have sought enhancement of compensation, modifying impugned award dated 06.12.2005 of the Motor Accident Claims Tribunal, Rohtak (in short 'the Tribunal').

Briefly, in the night of 18.08.2001, deceased Rajesh Kumar aged around 32 years and employed as Chief Officer in a shipping company, along with his parents, while travelling in car bearing registration No.HR-16-B-1111, driven by his father Shamsher Singh, when reached near fly-over of national highway No.10 in the area of Village Ismaila falling within the jurisdiction of Police Station Sampla, met with an accident caused by truck bearing registration No.HYO-259, driven in a rash and negligent manner. As a result thereof, Rajesh Kumar and his parents received multiple grievous injuries. Rajesh Kumar succumbed to his injuries on the spot. He, his parents and other occupants of the car were shifted to PGIMS, Rohtak, where Rajesh Kumar was declared brought dead.

Being aggrieved of the death of Rajesh Kumar, his legal heirs and dependents filed claim petition under Section 166 of the Motor Vehicles Act, besides separate claim petitions by his father and mother for grant of compensation against his death in a motor vehicular accident.

The Tribunal after holding trial, awarded compensation of ₹42,66,672/- along with interest at the rate of 9% per annum from the date of filing claim petition till realization.

Heard.

Undisputedly, deceased Rajesh Kumar deposited his savings of ₹7,44,727/- in his savings bank account as per copy of passbook (Ex.P8) with Canara Bank Branch, Rohtak, in 15 months prior to his death after incurring his personal expenses. Meaning thereby, deceased Rajesh Kumar was able to save approximately ₹62,000/- per month as an average. Deceased Rajesh Kumar was working on a ship as a Marine Engineer, where free boarding and lodging is provided by the shipping companies to its sailors, engineers and employees. Therefore, nothing can be deducted towards his personal expenses.

Undisputedly, at the time of his death, deceased was aged 32 years. Therefore, in view of judgment of the Hon'ble Supreme Court in ***National Insurance Company Limited v. Pranay Sethi and others**, 2017 (4) R.C.R.(Civil) 1009,* 40% has to be added to the savings of the deceased to arrive dependency of appellant-claimants towards Rajesh Kumar.

Adding the same, figure comes to ₹10,42,617/-, out of which 40% has to be deducted towards his expenses, which deceased must be spending during his stay of four months in India, inasmuch as a shipper is normally engaged onshore duty on ship only for eight months in a year. It is because of sultry climate, a health hazard for him.

Deduction of 40% salary of the deceased towards his personal expenses is also justified in view of ***Ramla and others v. National Insurance Company Limited****, (2019) 2 Supreme Court Cases 192*, wherein it is held that for quantifying compensation, cost of high living standard has to be taken into consideration. Deceased was a earner of foreign currency. Taking into consideration, salary of deceased to 2765 US Dollars per month, it is apparent that deceased had high living standard. After deducting 40% to the same, total dependency of the appellant-claimants upon deceased Rajesh Kumar comes to ₹6,25,571/- to which multiplier of 16 has to be applied considering ***Pranay Sethi's*** case (supra) taking into consideration 32 years of his age at the time of his death. Total compensation comes to ₹1,00,09,136/- to which ₹70,000/- has to be further added towards conventional heads of consortium, loss of love and affection and the same comes to ₹1,00,79,136/- less ₹42,66,672/- awarded by the Tribunal, which comes to ₹58,12,464/-.

Consequently, the compensation awarded by the learned Tribunal to the appellants-claimant to the tune of ₹42,66,672/- is enhanced to ₹1,00,79,136/- along with interest @ 7.5% per annum from the date of institution of claim petition till realization. Respondent No.3 – Insurance Company is directed to deposit the enhanced amount of ₹58,12,464/- more over and above already awarded by the Tribunal with interest within one month from today before the Tribunal for onward disbursement of the same to the appellants in proportion so arrived at by the Tribunal in accordance with law against proper receipt and identification. In case aforesaid enhanced amount is not deposited within stipulated time, Insurance Company would be liable to pay the same with interest @15% per annum from the date of institution of claim petition till realization.

Disposed of.

(Ramendra Jain)
Judge

September 17, 2019
R.S.

Whether speaking/reasoned Yes/No

Whether reportable Yes/No