IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O. No.458 of 2006 (O&M)
Date of Decision: 19.10.2019

Charanjit Kaur and another

......Appellants.

Versus

Mehar Singh and others

...... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.Vijay Lath, Advocate
for the appellants.

Mr. Rahul Pathania, Advocate
for Mr. R.C.Kapoor, Advocate
for respondent no.4-Insurance Company.

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LISA GILL, J.

Appellants-claimants, seek enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Ropar (for short 'tribunal'), vide impugned award dated 25.07.2005, on account of death of Budh Singh.

Appellants-claimants, who are the widow and children of the deceased, filed a petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'Act') claiming compensation on account of death of Budh Singh, which took place on 15.04.2003, due to rash and negligent driving of the offending vehicle i.e., tractor bearing registration no. PB-12-C-8829 by its driver-respondent no.3-Balwinder Singh. It is pleaded that the deceased-Budh Singh was working as a cashier with the Central Cooperative Bank, Branch Chaklan, drawing a salary of ₹13,034/- per month. FIR No.

53 under Sections 279,304-A IPC, Police Station Morinda, was registered, in this respect.

Learned Tribunal concluded that the accident in question was caused due to rash and negligent driving of the offending vehicle i.e., tractor bearing registration no. PB-12-C-8829 by respondent no.3-Balwinder Singh. Said finding of the learned tribunal has attained finality.

Learned tribunal while accepting the deceased to be employed as a cashier with the Central Cooperative Bank Branch, Chaklan, referred to the salary certificate, Ex.A-8 for the month of April 2003, wherein the deceased was in receipt of a salary of ₹13,034/- per month, his salary was considered to be ₹13,000/- per month. At the same time, it is observed by the learned tribunal that the deceased would have superannuated in the year 2010. As such, his monthly income may have escalated to about ₹17,000/- per month. Monthly salary was taken to be ₹17,000/- and ultimately the salary was assessed to be ₹15,000/- while observing that in order to get the correct amount, the mean of the two sums i.e., ₹13,000/- and ₹17,000/- should be taken. A sum of ₹40,000/- was deducted towards income tax and sum of ₹6,20,000/- was awarded as compensation, which is detailed as hereunder:-

1.	Total income of deceased	₹15000/- p.m.
2.	Deduction	1/ 3rd
3.	Multiplier	6
4.	Income tax deduction	₹1,00,000/-
	Total	**₹6,20,000/-**

Aggrieved therefrom, the present appeal has been filed by the appellants-claimants.

Learned counsel for the appellants submits that compensation awarded to the appellants deserves to be enhanced. Income tax has been wrongly deducted at a higher rate. Moreover, proper increment towards future prospects and compensation under the conventional heads be awarded. It is thus prayed that this appeal be allowed and the compensation awarded to the appellants be enhanced accordingly.

Per contra, learned counsel for respondent No.4-Insurance company refutes the abovesaid averments and submits that just and reasonable compensation has been awarded by the learned Tribunal, which does not call for any enhancement. Dismissal of the appeal is prayed for.

I have heard learned counsel for the parties and have gone through the photocopy of the record, furnished in Court today by learned counsel for the appellants. It is to be noted that the present is a matter, the file of which was burnt in the fire which took place on the High Court premises in the year 2011.

There is no dispute regarding death of Budh Singh in a motor vehicle accident which took place on 15.04.2003 due to the rash and negligent driving of the offending tractor bearing registration No.PB-12-C-8829 by respondent No.3-Balwinder Singh.

There is also no dispute regarding the deceased, aged 51 years, being employed as a cashier with the Central Cooperative Bank, Branch Chaklan, at the time of his death on 15.04.2003. As per salary certificate, Ex.A-8, the deceased was in receipt of a sum of ₹13,034/- per month as salary. The deductions made towards GPF etc., are admittedly to be included in the income of the deceased. Therefore, income of the deceased is assessed as ₹13,034/- per month instead of ₹15,000/- as done by the learned tribunal.

Learned counsel for the appellants has fairly stated that the component of income tax has not been deducted from the said amount released to the deceased. Learned counsel for the parties are *ad idem* that at the time of the death of the deceased, income slabs and the rates of income-tax (financial year 2003-2004) were as under:-

Income slab	Rates of income-tax
Upto Rs.50,000	Nil
Rs.50,001 to 60,000	10%
Rs.60,001 to 1,50,000	20%
Above 1,50,000	30% + surcharge @ 10%
Standard deductions: Rs.30,000/-	

Accordingly, deduction of ₹14,282/- towards income tax is to be effected from the annual income of the deceased. Therefore, deduction of ₹14,282/- instead of the lump sum amount of ₹1,00,000/- towards income tax is to be effected.

In view of the guidelines of the Hon'ble Supreme Court in the case of **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, increase on account of future prospects at the rate of 15% is afforded, as the deceased was 51 years old at the time of accident. Deduction of 1/ 3rd has been correctly effected by the learned tribunal. In view of the guidelines laid down by the Hon'ble Supreme Court in case of **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another 2009 (3) RCR (Civil) 77,** multiplier of 11 instead of 6 has to be applied as the deceased was 51 years old at the time of the accident.

Appellants are entitled to ₹15,000/- each towards loss of funeral expenses and loss of estate. Appellant no.1, is entitled to a sum of ₹40,000/-

towards loss of consortium. Appellant no.2, is held entitled to a sum of ₹40,000/- towards loss of parental consortium. Reference in this regard can gainfully be made to the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Ltd. v. N anu Ram Alias Chuhru Ram & Ors., 2018(4) RCR(Civil) 333** as well as **decision dated 14.03.2019 of this Court in FAO No.2110 of 2016 (Shri Ram General Insurance Company Ltd. v. Beant Kaur and others)**.

Appellants-claimants are, thus, entitled to compensation which is reworked as under:-

Sr.No.	**Heads of Claim**	**Amount**
1.	Income	₹13,034/- p.m. i.e., ₹1,56,408- p.a.
2.	Less income tax calculated for the financial year 2003-2004	₹1,56,408 – ₹14,282 = ₹1,42,126/-
3.	Total income after additional of future prospects at the rate of 15%	₹1,42,126 + (1,42,126 **x** 15%) = ₹1,63,445/-
4.	Income after 1/3rd deduction on account of personal expenses	₹1,63,445 – (1,63,445 **x** 1/3) = ₹1,08,963/-
5.	Total dependency after applying a multiplier of 11	(1,08,963 **x** 11) = ₹11,98,593/-
6.	Loss of estate	₹15,000/-
7.	Funeral expenses	₹15,000/-
8.	Loss of consortium	₹40,000/-
9.	Parental consortium	₹40,000/-
	Total	**₹13,08,593/-**

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Claimants shall be entitled to interest on the entire amount of compensation at the rate of 7.5% per annum from the date of filing of the petition till realization. Manner of disbursement as determined by the learned Tribunal shall remain the same.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

[LISA GILL]
Judge

19.10.2019
s.khan

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