203 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5448 of 2011
Date of Decision: 13.09.2019

Karamjit Kaur

.....Appellant

Versus

Balvir Singh @ Hamir Singh and others

........Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Inderjit Sharma, Advocate for the appellant.

None for respondent No.1.

Service of respondent No.2 is dispensed with vide order dated 07.09.2016.

Mr. Harsh Aggarwal, Advocate for respondent No.3-insurance company.

Respondent No.4 ex-parte vide order dated 30.07.2012.

NIRMALJIT KAUR, J. (ORAL)

The present appeal is filed by wife of deceased Gurmeet Singh for grant of compensation as well as for enhancement of compensation as granted vide award dated 31.01.2011 passed by the Motor Accident Claims Tribunal, Bathinda (for short, the Tribunal).

Learned counsel for the appellant submitted that the compensation cannot be denied to the appellant being a widow, even if, she has got remarried. Reliance is placed on the judgment rendered by this High Court in the case of *Santosh Gupta and another Vs. Surjit Singh and others (FAO No.709 of 1998), decided on 08.09.2017.*

Learned counsel for the respondent/insurance company does not dispute the judgment as relied upon by learned counsel for the appellant but states that the widow can only get her share of the total compensation at all if awarded by the Tribunal and it is between the appellant-widow and respondent No.4, who is mother of deceased.

A perusal of the award shows that the compensation was not denied to the appellant-widow on the ground that she had remarried but instead on the ground that she was not residing and was not interested in residing with her in-laws or living with the brother of deceased with whom, she has got allegedly married. Moreover, as per the judgment rendered in the case of Santosh Gupta (supra), which is not disputed, widow who has remarried cannot be denied compensation except that there may be some change in the percentage of deduction to be applied. Thus, there is no reason to deny the compensation to the appellant being the widow of deceased Gurmeet Singh. She is accordingly held entitled to the same.

Learned counsel for the appellant with respect to the enhancement of compensation submitted that no future prospects have been given and the income of the deceased has been assessed at only ₹2,000/- per month, which is on lower side, whereas, he was running a Farm House under the name and style as “J Farm” and he was selling the crops and vegetables. As per the notification issued by the State of Punjab placed on record, the minimum wages at that point of time, for an unskilled labourer was ₹3554/- per month. By applying the round figure, the same is accordingly assessed as ₹3,500/- per month.

Learned counsel for the respondent/insurance company is not able to dispute that the future prospects are required to be granted in view of the settled principle of law as per the the judgment of Hon'ble the Apex Court in the case of National Insurance Company Ltd. versus Pranay Sethi and others, (2017) 16 SCC 680.

In view of the above, the appellant is entitled to the enhanced compensation as per the provided calculation:-

Sr. No.	Head	Amount assessed
1	Income	₹3,500/- per month ₹42,000/- per annum
2	Deduction	1/3rd 1/3rd of 42000- = ₹14,000/- (42000 – 14000 = ₹28,000/-
3	Future Prospects	40% (28000 x 40% = ₹11,200/-) 28000 + 11200 = ₹39,200/-
4	Multiplier	14
5	Compensation	39200 x 14 = ₹5,48,800/-
6	Conventional Heads	₹7,500/-
7	Total	₹5,56,300/-
8	Compensation awarded by the Tribunal	₹2,31,500/-
9	Differences	₹556300 – 231500 = ₹3,24,800/-

Respondent No.4 has been proceeded against ex-parte. Therefore, it is evident that she does not wish to claim any amount towards enhancement. Moreover, she alone has withdrawn the amount of compensation which was granted by impugned award.

Thus, the enhanced compensation of ₹3,24,800/- be paid to the appellant 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

13.09.2019
sandeep

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