IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5788 of 2012 (O&M)
Date of Decision: July 04, 2019

Mannu Sharma and others

...Appellants

Versus

Som Nath @ Sohan Lal and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Ashwani Verma, Advocate
for the appellants.

Mr. Vishal Aggarwal, Advocate
for respondent No.3-Insurance Company.

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JAISHREE THAKUR, J. (Oral)

1. This is an appeal that has been filed seeking enhancement of compensation that has been awarded by the Motor Accident Claims Tribunal on account of death of Subash Sharma, husband of appellant No.1, father of appellants No.2 to 4 and son of appellant No.5.

2. Learned counsel for the appellants herein would contend that the Tribunal has erred in not awarding adequate compensation to the appellants-claimants as Ex.P20 and Ex.P21 have been ignored. It is argued that the said exhibits are none other than the income tax returns filed by the deceased for the assessment years 2008-09 (Ex.P20) and 2009-10 (Ex.P21) reflecting the income of the deceased to be ₹ 1,06,340/- and ₹ 1,05,743/- per annum respectively. It is also contended that the deceased was holding

PAN card and paying income tax. It is also argued that the Tribunal has erred in ignoring the said documents primarily on the ground the same were not proved. It is further contended that the future prospects were not allowed and the appellants-claimants would be entitled to the same in terms of the judgment rendered in ***National Insurance Co. Ltd. vs. Pranay Sethi & others, 2017(4) RCR (Civil) 1009.*** It is submitted that other benefits have also not been allowed to the appellants-claimants as per the judgment referred to above.

3. On the other hand, learned counsel for respondent No.3-Insurance Company submits that there is no infirmity in the award so passed, while contending that the income tax returns have rightly not been taken into consideration on the ground that the same were not duly proved.

4. I have heard learned counsel for the parties and have also perused Ex.P20 and Ex.P21, which are income tax returns filed by the deceased. A reading of the said income tax returns would reflect that the same have been submitted in the office of the Income Tax Authority on 18.02.2009 and 31.03.2010 respectively, which would go to reflect that income tax returns were being filed by the deceased. However, since the same were not exhibited in accordance with law, in such a situation oral request of learned counsel for the appellants-claimants is acceded to, for an opportunity be given to the appellants herein to have the same duly proved in accordance with law. As such, the matter is remanded back to the Tribunal to decide the matter afresh after giving two adequate opportunities to the appellants herein to prove the income tax returns of the deceased and in case, such documents/evidence is produced, two opportunities be allowed

to the Insurance Company to controvert the same, if so desired. Since the appeal in hand is pending in this court since 2012, it is expected that the Tribunal decide the matter as expeditiously as possible. The parties (through their counsel) are directed to appear before the concerned Tribunal on 17.08.2019.

5. The appeal stands allowed. The award of the Tribunal is set aside with the aforesaid directions and the quantum of compensation be re-assessed based on fresh evidence available.

(JAISHREE THAKUR)
JUDGE

July 04, 2019
vijay saini

Whether speaking/reasoned Yes/No
Whether reportable Yes/No