IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 1313 of 2015 (O&M)
Date of decision : February 07, 2019

Naib Kaur .....Appellant

Versus

Harkesh Kumar and others ....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Sanjay Jain, Advocate for the appellant.

Mr. Lalit Garg, Advocate for respondent No. 3.

***

LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Ambala (hereinafter referred to as the 'Tribunal') on account of death of Gurdev Singh vide award dated 20.11.2014.

Brief facts necessary for adjudication of the case are that the claimant i.e. widow of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Gurdev Singh on 22.09.2013 in a motor vehicle accident caused due to driving of the offending vehicle car bearing registration No. HR-01-AC-7151 by respondent No.1 in a rash and negligent manner. It was averred that Gurdev Singh started his journey from his village on a bicycle to Air Force Station, Ambala Cantt. When he reached in front of Chevrolet Car Agency on Chandigarh-Ambala road, offending car bearing registration No. HR-01-AC-7151 came from Chandigarh side and struck against the bicycle of the deceased from behind. Gurdev Singh was taken to Civil Hospital, Ambala city where he succumbed to his injuries.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place on 22.09.2013 due to rash and negligent driving of the offending car bearing registration No. HR-01-AC-7151 by respondent No. 1. Learned Tribunal awarded a sum of ₹15,06,680/- with interest at the rate of 7.5% per annum from the date of filing of the claim petition till date of actual realisation of the award. The deceased was admittedly serving the Indian Air Force drawing a salary of ₹23,780/- per month. He was 55 years old at the time of the accident. Deduction of 1/3rd was effected. Multiplier of 11 was applied as the deceased was 55 years old at that time. Additionally, a sum of ₹1,00,000/- on account of loss of consortium was awarded and a sum of ₹50,000/- on account of loss of love and affection besides a sum of ₹25,000/- on account of funeral expenses.

Aggrieved of the quantum of compensation, claimant has filed this appeal.

Learned counsel for the appellant submits that there is no dispute regarding income of the deceased assessed as ₹23,780/- per month by the learned Tribunal, however, increment on account of future prospects has to be afforded in terms of judgment of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009.** It is submitted that the claimant has no objection in case the compensation under the conventional heads is reworked.

Learned counsel for the respondent - insurance company is unable to deny that in terms of guidelines of the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), increment on account of future prospects is to be awarded at the rate of 15% to the claimant. Accordingly, compensation awarded to the claimant is required to be re-worked.

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

There is no dispute regarding income of the deceased to be ₹23,780/- per month as assessed by the learned Tribunal. Income of the deceased, as assessed by the learned Tribunal, is upheld as ₹23,780/- per month. In view of the guidelines of the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), increase on account of future prospects at the rate of 15% (₹3567/-) has to be afforded, as the deceased was 55 years old at the time of accident and serving the Indian Air Force, which takes income of the deceased to ₹27,347/- per month. 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, deduction of 1/3rd is to be applied, thereby rendering income of the deceased to be ₹18,231/-(27347-9116). Applying a multiplier of 11, dependancy of the claimants is, therefore, assessed as ₹24,06,492/- (18231 x12x11). The claimant is entitled to ₹15,000/- each for funeral expenses (instead of ₹25,000/-) and loss of estate. The claimant is entitled to sum of ₹40,000/- on account of loss of consortium instead of ₹1,00,000/- and ₹50,000/- (loss of love and affection), awarded by the learned Tribunal. Claimant is, thus, entitled to total compensation of ₹24,76,492/- detailed as under:-

Loss of dependency (18231 x12x11)	₹24,06,492/-
Loss of spousal consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹24,76,492/-

The amount of compensation already awarded to the appellant, needless to say, shall stand deducted from the amount calculated as above. Appellant shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization.

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

(Lisa Gill)
Judge

February 07, 2019
rts

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