IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3151 of 2015
Date of Decision:28.02.2019

Mamta Dhiman and others

.................APPELLANTS

Vs.

Krishan Kumar and others

.................RESPONDENTS

CORAM: HON'BLE MR. JUSTICE DR. RAVI RANJAN

Present: Mr.Hamid Hussain, Advocate for the appellants.

Mr. Sanjeev Kumar Kodan, Advocate for respondent No.3-Insurance Company.

****

DR. RAVI RANJAN, J.(Oral)

The present appeal has been preferred by the claimants-appellants for enhancement of the awarded compensation amount on account of death of Hardeep Singh vide the Judgment and Award dated 26.11.2014 passed in MACT Case No.864 by the Motor Accident Claims Tribunal, Panchkula (hereinafter to be referred as “the Act”).

Short facts necessary for consideration of the *lis* stand enumerated as under:-

As per the case of the claimants/appellants, on 22.06.2013, Hardeep Singh(since deceased) was going from Panchkula to Villag Garhi Kotana on motorcycle bearing registration No.HR-03-J-6385. Hardeep Singh was being followed by his brother, namely, Jagdeep Singh on a separate motorcycle. At about 10:00 P.M., when they reached near a Punjabi Dhaba near Village Manak Tabra, a Tata Ace bearing registration No.HR-37-C-3499 (hereinafter to be referred as “the offending vehicle”) being driven at high speed, rashly and negligently, overtook the motorcycle of Hardeep Singh and, thereafter, its driver suddenly applied the brakes. As a result thereof, motorcycle of Hardeep Singh hit against the offending vehicle from backside. Due to that, he fell down on road and suffered multiple injuries. After the accident, injured-Hardeep Singh was taken to GMCH, Sector-32, Chandigarh, where he succumbed to his injuries on 27.06.2013. Thereafter, on the basis of statement made by his brother Jagdeep Singh, an FIR was registered at Police Station Raipur Rani. It is claimed that on the day of accident, deceased-Hardeep Singh was aged about 28 years.

Upon notice, respondents appeared before the Tribunal. Respondents No.1 and 2 in their written statement pleaded, *inter-alia*, non-maintainability of the claim petition being false, denied the causing of accident by respondent No.1 while driving the offending vehicle and termed registration of FIR against respondent No.1 to be false.

I have heard learned counsel for the appellants as well as respondent No.3-Insurance Company and perused the records of this case.

First point taken at the time of hearing is that a multiplier of 17 should have been chosen by the Tribunal in place of 16. Reason being given for that is, as per the age disclosed in the voters identity card, the deceased-Hardeep Singh, at the time of the accident, would be less than 30 years and, as such, the multiplier should have been chosen as 17 in view of law laid down by the Apex Court rendered in ***Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3) R.C.R. (Civil) 77***.

However, on perusal of the impugned Judgment, it appears that Tribunal based its finding on the fact that in the income tax return of deceased-Hardeep Singh, the date of birth had been shown as 25.02.1980 and, accordingly, at the time of the accident, his age has been calculated as 33 years and 04 months. In my opinion, in view of the aforesaid admitted fact, this Court would not be inclined to interfere with the aforesaid finding.

By way of second limb of argument, it is contended that only 30% has been awarded towards the head of future prospects which should have been 40% of the income.

Learned counsel for the appellants place reliance upon the ratio laid down by the Apex Court rendered in ***National Insurance Company Ltd. Vs. Pranav Sethi and others, 2017(4) R.C.R.(Civil)***.

Learned counsel appearing for respondent No.3-Insurance Company is not in a position to controvert the aforesaid fact in view of the aforesaid decision of the Apex Court.

Accordingly, it is held that the calculation should have been made @40% with respect to the head of future prospects, therefore, the awarded compensation amount has to be re-calculated in terms thereof.

Third point being raised is that in view of the fact that there are four dependents in the family of the deceased, i.e., his widow, one son, one daughter and father of the deceased, only $\frac{1}{4}^{th}$ of the monthly income should have been deducted towards personal expenses whereas $1/3^{rd}$ has been deducted in the present case by the Tribunal.

Learned counsel for respondent No.3-Insurance Company has pointed out from the record that PW-1 Jagdeep Singh(brother of the deceased), who is son of claimant No.4(father of the deceased), has clearly stated in his testimony that his father, who is 50 years old, at the time of the accident, was working as a Carpenter and, as such, he cannot be held to be dependent upon the deceased.

I find force in such submission raised on behalf of learned counsel for respondent No.3-Insurance Company.

From the perusal of the deposition, it appears that PW-1 has also admitted that his father is working as a Carpenter and, as such, he cannot be held to be dependent upon the deceased and in terms of ratio laid down by the Apex Court in ***Smt. Sarla Verma (supra),*** the father, in such a situation, cannot be considered to be dependent upon the deceased.

Next point raised by the learned counsel for the appellants is that though admittedly the deceased remained admitted at hospital for about five days but nothing has been given toward such expenses by the Tribunal. Though no evidence has been brought on record as to exactly what was the quantum of such expenditure actually incurred towards his treatment, in my considered opinion, even in the absence of that a sum of Rs.50,000/- could have been awarded towards such expenses also by the Tribunal.

Accordingly, I hold that towards medical expenses Rs.50,000/- is to be added in the total compensation amount.

Lastly, it is contended by learned counsel for the appellants that rate of interest only @ 6% per annum has been awarded on the compensation amount. However, it is pointed out by learned counsel for respondent No.3-Insurance Company that it is conditional as in case the amount is not paid within the period fixed then the interest rate would increase to 8% per annum. However, in my considered opinion, the interest rate of 8% per annum would serve the purpose in such a situation when a person has lost his life due to negligent driving of the offending vehicle.

Accordingly, the interest rate is raised from 6% to 8% per annum to be calculated from the date of filing of the claim petition till the date of actual realization.

As such, the awarded compensation amount is re-calculated as under:-

Sr. No.	Heads of Compensation	Amount
1.	Income	Rs.15, 166/- per month
2.	Addition of Future Prospects (@ of 40% of income)	(Rs.15,166+Rs.6066)=21,232/-
3.	Deduction(1/3rd) for personal expenses	Rs.21,232-Rs.7077=Rs.14,155/-
4.	Multiplier (age group of 31-35)	16
5.	Dependency	Rs.14,155x16x12=Rs.27,17,760/-
6.	Amount awarded by Tribunal under conventional heads	Rs.1,00,000/-
7.	Medical expenses	Rs.50,000/-
	Total compensation	**Rs.28,67,760/-**
	Enhanced compensation amount	**Rs.28,67,760-Rs.26,23,648 =Rs.2,44,112/-**

Accordingly, the appellants are held entitled for the enhanced amount, i.e., Rs.2,44,112/-. The compensation amount would also carry interest @ 8% per annum to be calculated from the date of filing of the claim petition till the payment of the compensation amount.

In view of the above, present appeal is partly allowed and the Award of learned Tribunal stands modified and enhanced to the extent indicated above.

(DR. RAVI RANJAN)
JUDGE

28.02.2019
Anjal

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