IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-5501-2015 (O&M)

Date of decision: 19.08.2019

Sarabjit Kaur (deceased) through her LR Kuldeep Kaur

..... Appellant

Versus

Harjinder Kumar and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Vivek Suri, Advocate for the appellant.

Mr. DR Bansal, Advocate
for respondent No. 3-Insurance Company.

RAMENDRA JAIN, J. (ORAL)

The claimant has approached this Court, for enhancement of compensation, modifying the impugned Award dated 15.04.2015 of the Motor Accident Claims Tribunal, Fatehgarh Sahib (for short-'the Tribunal').

Briefly, Jasmeet Singh, a Constable in Punjab Police died in a motor vehicular accident, in the morning of 16.06.2014, while travelling on motor cycle bearing Registration No. PB-23-P-8903, caused by respondent No. 1-Harjinder Kumar, driving car bearing registration No. HR-01-AD-5069, owned by his wife respondent No. 2-Seeta Madan, insured with respondent No. 3-Insurance Company. Consequently, appellant-Sarabjit Kaur (deceased) being mother of deceased-Jaspreet Singh and sister-Kuldeep Kaur, filed claim petition under Section 166 of the Motor Vehicles Act, 1988, for grant of compensation to them against the death of Jasmeet Singh.

After holding trial, the learned Tribunal had awarded a sum of ₹27,25,000/- as compensation to Sarabjit Kaur-claimant No.1 along with interest @ 7% per annum, from the date of filing of claim petition till its realization.

Heard.

Having given thoughtful consideration to the rival submissions, this Court is of the view that the learned Tribunal has erred in taking the monthly income of the deceased at ₹25,000/- instead of ₹30,018/- as per salary certificate Ex. P-1, duly proved by PW-1 Sanjiv Kumar, Salary Clerk, of the office of Senior Superintendent of Police, Fatehgarh Sahib. Hon'ble the Supreme Court in **Shaymwati Sharma and others Vs. Karam Singh and others, 2010(12) SCC 378,** held that while ascertaining income of the deceased any deductions shown in the salary certificate towards GPF, life insurance premium, repayments of loans etc., should not be excluded from the income. The deduction towards income tax/surcharge alone should be considered to arrive at the net income of the deceased. Therefore, income of the deceased for calculating compensation is to be taken at ₹32,018/- per month (rounded off to ₹32,000/-). Since, deceased was un-married, therefore, 50% has to be deducted towards personal expenses of the deceased. After deducting the same, monthly income of the deceased comes to ₹16,000/-. According to law laid down by the Apex Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009 (3)**

RCR (Civil) 77, 50% has to be added towards future prospects of the deceased and after adding the same, the annual dependency comes to ₹2,88,000/- (16000+8000 = 24000 x 12). Since, age of the deceased at the time of death was 23 years, therefore, multiplier of 18 has to be applied. The learned Tribunal has awarded a sum of ₹25,000/- towards funeral expenses of the deceased i.e. ₹10,000/- in excess, but did not award any compensation under the head 'loss of estate'. Therefore, by adding ₹5000/- more under the conventional heads i.e. ₹15,000/- towards funeral expenses and ₹15,000/- towards loss of estate, the total comes to ₹30,000/-, out of which ₹25,000/- had already been granted by the learned Tribunal. Therefore, the compensation to which the appellant-claimant is entitled, is reassessed as follows:-

Sr. No.	**Heads**	**Calculation**
(i)	Income of the deceased after deducting 50% towards personal expenses of the deceased.	₹32000-16000= ₹16000/- per month.
(ii)	Annual dependency after adding 50% towards future prospects	16000+8000=24000 24000 x 12=₹2,88,000/-
(iii)	Compensation after applying multiplier of 18	288000x 18=₹51,84,000/-
(iv)	Conventional heads	₹5,000/-
(v)	Total	₹51,84,000+₹5000= ₹51,89,000/-
	Total enhanced compensation	5189000-2725000= ₹24,64,000/-

Therefore, the claimant-appellant is entitled to the enhanced compensation of ₹24,64,000/-, over and above the amount of

₹27,25,000 /- already granted by the learned Tribunal. Accordingly, respondent No. 3-Insurance Company, through its counsel is directed to deposit the enhanced compensation of ₹24,64,000/- before the learned Tribunal within six weeks from today, along with up-to-date interest @ 7.5% per annum from the date of filing of claim petition till realization, for onward disbursement to the claimant-appellant, in accordance with law against proper receipt and identification.

In case aforesaid enhanced amount is not deposited within stipulated time, Insurance Company would be liable to pay the same with interest @15% from the date of institution of claim petition till realization.

Disposed of.

August 19, 2019 **(RAMENDRA JAIN)**
rishu **JUDGE**

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