IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 4837 of 2016
Date of Decision: April 01, 2019

Labh Kaur and others ...... Appellants(s)

Versus

Tarlochan Singh and others ..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Jimmy Singla, Advocate
for the appellants.

Mr. Varun Sharma, Advocate for
Mr. B.R. Madan, Advocate
for respondent no.3-insurance company.

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LISA GILL, J. (oral)

This appeal has been filed seeking enhancement of compensation awarded to the claimants vide award dated 29.02.2016, passed by learned Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'the Tribunal).

Appellants i.e. the widow and four children of the deceased Charanjit Singh filed a petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation on account of death of Charanjit Singh, which took place due to the injuries sustained by him in a motor vehicle, which took place on 12.08.2014, due to the rash and negligent driving of the offending car bearing registration No. PB-11-BJ-4927, by its driver Tarlochan Singh-respondent no.1.

Learned Tribunal on considering the evidence on record, facts and circumstances concluded that the accident in question took place due to the rash and negligent driving of the offending vehicle, by its driver Tarlochan Singh-respondent no.1. Charanjit Singh was accepted to be working as a Beldar in the Animal Veterinary Hospital/Dispensary, Patiala. His salary was accepted to be Rs.31,035/- per month. Learned Tribunal, however, observed that appellant-widow was receiving Rs.15,000/- per month as pension, therefore, the same should be deducted from the salary. Income of the deceased was thus assessed as Rs.5,690 after deducting Rs.15,000/-, which the widow was getting as pension. After effecting deduction of 1/3rd and applying a multiplier of 9, learned Tribunal awarded a sum of Rs. Rs.7,70,332/-, the detail of which is as under:-

Sr. No.	**Heads**	**Calculations**
1.	Gross income	31,035/-
2.	Income after deducting 1/3rd as personal living expenses	31,035- 10,345 = 20,690/-
3.	Income after deducting Rs.15,000/- as pension given to appellant no.1	20,690 – 15,000 = 5,690/-
4.	Compensation after applying multiplier of 9	5690 x 12 x 9 = 6,14,520/-
5.	Loss of consortium	1,00,000/-
6.	Funeral expenses	25,000/-
7.	Medical expenses	30,812/-
	Total	**7,70,332/-**

Learned Tribunal held appellant no.1 alone, to be entitled to compensation as no evidence was led to show that four children of the deceased were dependent upon the deceased.

Present appeal has been filed seeking enhancement of the compensation awarded. Learned counsel for the appellants submits that he does not press this appeal qua respondents no.2 to 5. Appeal is accordingly dismissed as not pressed qua the said appellants.

Learned counsel for the appellants submits that the amount received as pension by the widow has been wrongly deducted from the income of the deceased. Future prospects in terms of the judgment of the Hon'ble Supreme Court in ***National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680*** have not been awarded. However, it is fairly stated that the compensation awarded under the conventional heads be re-worked in terms of the judgment of the Hon'ble Supreme Court in National ***Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680*** and ***Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors. 2018(4) RCR Civil 333***.

Learned counsel for respondent no.3-insurance company, however, prays that the impugned award dated 29.02.2016 does not call for any enhancement of compensation as the same is reasonable and just in the facts and circumstances of the case. Dismissal of the appeal is prayed for.

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

There is no dispute that the deceased who was working as Beldar in the Animal Veterinary Hospital/Dispensary, Patiala, was 59 years old at the time of the accident, his date of birth being 10.11.1955. Salary certificate (Ex. C-5) reflects his salary to be Rs.31,035/- per month. It is only a deduction of Rs.300/- per month on account of income-tax, which is to be effected. Learned Tribunal has indeed erred in deducting the amount of Rs.15,000/- received by the widow as pension. Income of the deceased is thus assessed as Rs.30,735/- (31035-300) per month. In terms of the judgment of Hon'ble Supreme Court in ***National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680***, 15% increment towards future prospects has to be afforded. Deduction of 1/3rd was correctly effected by learned Tribunal. Multiplier of 9 was also correctly applied by learned Tribunal. Appellant no.1 is entitled to a sum of Rs.15,000/- each on account of funeral expenses and loss of estate instead of Rs. 25,000/- awarded by the learned Tribunal towards funeral expenses. She is entitled to Rs.40,000/- for loss of consortium instead of Rs.1,00,000/- awarded by the learned Tribunal. Compensation awarded in respect to the medical expenses is maintained.

Appellant no.1-claimant is, thus, entitled to compensation which is re-worked as under:-

Sr.No.	***Heads of Claim***	***Amount***
1.	Income 30,735 x 12	3,68,820 per annum
2.	Total income after addition at the rate of 15% on account of future prospects	3,68,820+55,323 (3,68,820 x 15%) = 4,24,143/-
3.	Income after 1/3rd deduction on account of personal expenses	4,24,143 – 1,41,381 (4,24,143 - 1/3rd) = 2,82,762/-
4.	Total dependency after applying a multiplier of 9	2,82,762 x 9 = 25,44,858/-
5.	Funeral expenses	15,000/-
6.	Loss of estate	15,000/-
7.	Loss of filial consortium	40,000/-
	Grand Total	**Rs. 26,14,858/-**

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Claimant-appellant no.1 shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the claim petition till realization.

Appeal is accordingly disposed of.

April 01, 2019.
Sunil

(LISA GILL)
JUDGE

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