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

FAO-5098-2016 (O&M)
Date of Decision: July 12.07.2019

Kiran and others

Appellants

Versus

Ganga Saran and others

Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. R. K. Chaudhary, Advocate
for the appellant.

Mr. Abhinav Singla, Advocate
for respondent No.3.

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JAISHREE THAKUR, J. (Oral)

This is the first appeal that has been filed seeking to challenge the award dated 25th January, 2016 passed by the Motor Accident Claims Tribunal Panipat whereby an amount of ₹25,21,420 has been awarded in MACT case no.37 of 2013.

Learned Counsel for the appellant herein would contend that the compensation as awarded is on the lesser side. It is argued that on 15th April, 2010 the deceased was returning to Delhi on a Scooter bearing registration no. DL-4S-G-6813 after meeting his brother in village Afzalpur in District Gaziabad. On his return he was hit by a dumper bearing registration no.HR-13-GA-0281 and succumbed to the multiple injuries he suffered. It is argued that the compensation as awarded is not adequate as he has been awarded an amount of ₹50,000/- on account of loss of love and affection. It is also argued the dependency ought to have been calculated ¼ since there were more than four dependants.

Per contra learned counsel on behalf of the Insurance Company submits that the compensation as awarded has rightly been awarded by the Motor Accident Claims Tribunal, Panipat. It is argued that after calculation the Tribunal assessed the income of the deceased at the rate ₹13,619/- based on the salary certificate and taking into account that the deceased was aged 37 years, and an addition of 50 per cent to the actual income of the deceased towards future prospects has been taken into account, which results into the income being assessed at the rate of ₹20,429/-, while taking into account 1/3rd amount as deduction towards personal expenses a multiplier of 15 have been awarded taking into account his age group.

It is argued that apart from the above the Tribunal has allowed ₹50,000/- towards consortium, ₹ 5,000/- towards loss of estate and ₹ 5,000/- towards loss of funeral expenses alongwith litigation charges of ₹10,000/-. It is argued that there is no infirmity in the award so passed.

I have heard the learned counsel for the parties and have gone through the award as passed by the Tribunal. The Tribunal while taking into account the age of the deceased as 37 and his income as ₹13,619/- rightly came to the conclusion and that for the purposes of the income of the deceased for calculating compensation ₹20,429/- per month is to be taken into account. Dependency of the deceased has been taken at one-third by taking into account that the deceased left three dependant members namely his widow- claimant no.1, the unmarried daughter-claimant no.2 and the minor son- claimant no.4, mainly three claimants. While rejecting the claim of the claimant no.3 i.e. his son since he was a major and earning ₹4,000/- per month. Therefore, there is no infirmity in the 1/3rd deduction that has been allowed towards personal expenses since the same is passed upon the judgement as rendered in ***Sarla Verma and others vs. Delhi Transport Corporation and Anr. 2009 (ACJ) 129 SC***. Moreover the appellants herein have been already allowed an amount of ₹70,000/- in other heads which may not fall under the heads as specified in ***National Insurance Company vs. Pranay Sethi 2017(4)RCR(Civil)1009*** i.e. ₹40,000/- and ₹15,000/- for funeral expenses ₹15,000/- for loss of estate. On a reading of the said award shows that an amount of ₹70,000/- has been allowed to the claimants herein even though they do not fall under the heads as specified. Adequate compensation has been awarded, the Tribunal has awarded an amount of ₹25,21,420/- which award is in conformity with the judgement rendered in **Pranay Sethi*'s case (supra)*** and, therefore, finding no ground to interfere with the award so passed, the present appeal stands dismissed.

(JAISHREE THAKUR)
JUDGE

July 12, 2019
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Whether speaking/reasoned	Yes
Whether reportable	Yes/No