244 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4212 of 2017 (O&M)
Date of Decision: 16.07.2019

Satbir and another .....Appellants

Versus

Ishwar and others ....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Vijay Saini, Advocate for the appellants.

Mr. Lalit Garg, Advocate
for respondent No.3.- Insurance Company.

NIRMALJIT KAUR, J. (ORAL)

CM-13247-CII-2017

Allowed, as prayed for.

FAO-4212-2017

The present appeal has been filed for enhancement of compensation as awarded by the Motor Accident Claims Tribunal, Jind (for short, the Tribunal), vide award dated 05.11.2016/06.12.2016.

While praying for allowing the said appeal, learned counsel for the appellants submitted that the multiplier of 18 should have been applied instead of 17 taking the age to be 22 years of the deceased. Similarly, the future prospects should have been granted, which the Tribunal failed to do.

Learned counsel for respondent No.3-insurance company is not able to dispute this fact as per the judgment rendered by Hon'ble the Apex Court in the case of National Insurance Company Ltd. versus Pranay Sethi and others, (2017) 16 SCC 680. Accordingly, the appellants are held entitled to 40% of the future prospects and multiplier of 18 instead of 17.

On the other hand, learned counsel for respondent No.3-insurance company submitted that the income of the deceased has been assessed at the higher rate, as per the minimum wages prescribed for the said period, the same should have been taken for an unskilled labourer as ₹6,000/- per month, whereas, the Tribunal has taken as ₹8,000/- per month, besides the fact that the respondent-insurance company has not filed any counter claim.

This Court is of the view that amount of ₹8,000/- so taken as income need not be tempered with. In case ₹8,000/- per month is taken, it amounts to only ₹266/- per day, which every able person would be in a position to earn. Hence, no interference qua the assessment of income.

However, there is merit in the argument that the amount as awarded under the conventional heads should have been only ₹30,000/- whereas, the Tribunal has awarded ₹75,000/- taking into account that the deceased was un married person and as per judgment as rendered in the case of Pranay Sethi (Supra).

In view of the above, the appellants are entitled to the enhanced compensation as calculated as under:-

Sr. No.	Head	Amount assessed
1	Income	₹8,000/- per month (8000 x 12 = 96000 per annum)
2	Future Prospects	40% (96,000 x 40% = ₹38400) 96,000+ 38400 = ₹134400
3	Deduction	1/2nd 1/2 of 1,34,400 = ₹67200/- (134400 – 67200 = ₹67200/-
4	Multiplier	18%
5	Compensation awarded	67200 x 18 = 12,09,600/-
6	Conventional Heads	₹30000/-
7	Total	₹12,39,600/-
8	Compensation awarded by the Tribunal	₹8,91,000/-
9	Differences	₹1239600 – 891000 = ₹348600/-

Thus, the enhanced compensation of ₹3,48,600/- be paid to the appellants within two months from today alongwith 6% interest per annum from the date of filing of claim petition. In case the said amount is not paid within two months, the same shall be paid with 12% interest from the expiry of the period of two months.

The appeal is disposed of accordingly.

(NIRMALJIT KAUR)
JUDGE

16.07.2019
sandeep

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No