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

FAO No. 2724 of 2018 (O&M)
Date of decision: 2.7.2019

Daljit Kaur and others

...Appellants

Versus

Narinder Singh and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Abhishek Sanghi, Advocate,
for the appellants.

Mr. Amit Kundra, Advocate,
for respondent No.3.

JAISHREE THAKUR, J.

This appeal seeks to challenge the award dated 2.5.2017 passed by the Motor Accident Claims Tribunal, Patiala, wherein the appellants herein have been allowed compensation of ₹19,57,000/- on account of death of Paramjit Singh.

In brief, the facts are that on 12.9.2016, deceased Paramjit Singh was going on his motorcycle bearing PB-11-2474 and when he reached near the bridge of village Mithu Majra, he was hit by a car bearing No. PB-11-BH-1419, being driven by respondent No.1 in rash and negligent manner, as a result of which, Paramjit Singh fell down on the road and received grievous injuries and ultimately succumbed to the injuries on 14.9.2016. It was alleged that the accident took place due to sole rash and negligent driving of respondent No.1 and consequently an FIR came to be lodged under Sections 279 and 304-A IPC at Police Station Sadar, Patiala. With these averments, a claim petition was filed by the widow and the children of the deceased claiming that they were fully dependent on the deceased for their maintenance and livelihood. It was claimed that the deceased was running a shop in the name and style of 'Guru Nanak Furniture House' and was earning ₹25,000/- per month.

The claim petition was contested by the respondents, inter-alia, taking preliminary objections that the petition was not maintainable, no cause of action had accrued etc. Issues were framed and thereafter evidence was led by the parties in support of the their respective claims.

After scrutiny of the evidence brought on record, the Tribunal held that the the accident was the result of rash and negligent driving of respondent No.1 and on assessment of the facts and evidence before it allowed compensation of ₹19,57,000 /-, which has been now challenged in the instant appeal.

Learned counsel for the appellants submits that the amount of compensation awarded by the Tribunal is on the lower side and as such the same deserves to be enhanced. It is submitted that the deceased was income tax assessee and his income for the year 2015-2016, as per income tax return, was ₹2,60,000/-. The deceased was in 10% tax bracket and as such his income should have been assessed at ₹2,59,000/-, as ₹2,50,000/- was exempted from tax assessment and the deceased was liable to pay tax only on ₹10,000/-, which comes to ₹1,000/-. It is further submitted that no compensation has been awarded on account of the future prospects. However, deduction of 1/3rd towards personal and living expenses of the deceased and the multiplier as applied by the Tribunal have not been disputed.

On the other hand learned counsel appearing on behalf of respondent No.3—Insurance company submits that adequate amount of compensation has been awarded by the Tribunal and as such no interference is called for in the appeal by this Court.

The Tribunal, after examining the evidence produced by the respective parties held that the deceased was 52 years of age and assessed his annual income at ₹2,43,000/-. The Tribunal deducted 1/3rd towards personal and living expenses of the deceased and while applying the multiplier of 11, awarded the amount of compensation, as mentioned above.

Admittedly, on the record, there are three income tax returns available for the assessment years 2013-2014, 2014-2015 and 2015-2016, exhibited as CW3/A, CW3/B and CW3/C respectively. A perusal of the same would reflect that there had been a substantial increase in the income of the deceased, which has been ₹2,29,054/- for the assessment year 2013-2014, ₹2,40,000/- for the assessment year 2014-2015 and a substantial increase to ₹2,60,000/- for the assessment year 2015-2016. The Tribunal has erred by taking average of the three years as annual income of the deceased and coming to a conclusion that his annual income was ₹2,43,000/-. In fact, the annual income of the deceased should have been taken to be ₹2,60,000/- as assessed for the year 2015-2016, the year preceding his date of death in September, 2016. Since the deceased had fallen in such income bracket, which is liable to be taxed, the tax payable has to be deducted before determining his monthly/annual gross income. ₹2,50,000/- was exempted from taxation at the relevant time, therefore, he would be liable to pay tax at the rate of 10% on ₹10,000/-, which comes to ₹1,000/-, therefore, his annual earning would come to ₹2,59,000/-. and the monthly earning would be ₹21,583/-. Increase in income on account of future prospects at the rate of 10% and other conventional heads are also required to be reckoned, keeping in view the judgment of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others 2017 (4) R.C.R. (Civil) 1009.** Therefore, compensation payable to the appellants is re-worked and tabulated as under:-

Sr. No.	***Heads***	***Calculation***
(i)	Name of the deceased	Paramjit Singh
(ii)	Date of accident	12.9.2016
(iii)	Age of the deceased	52 years
(iv)	Monthly income of the deceased	₹ 21,583/-
(v)	10% of (iv) is to be added towards future prospects	(₹ 21583+₹2158= ₹ 23741/- per month
(vi)	1/3rd of (v) above deducted towards personal expenses	(₹ 23741-₹7913) = ₹ 15828/- per month
(vii)	Compensation calculated after applying the multiplier of 11	(₹15828X12X11) = ₹ 2089,296/-
(viii)	Funeral expenses	₹ 15000
(ix)	Compensation for loss of consortium	₹ 40000
(x)	Compensation for loss of estate	₹ 15000
	Total	₹ 21,59,296

As a sequel of my discussion above, the appeal is partly allowed. The award of the Tribunal is modified and the total compensation payable to the claimants shall be ₹ 21,59,296/- and the amount in excess over what was awarded will also attract interest @7.5% from the date of the instant appeal till the date of payment. The claimants will share the amount of compensation as per the award of the Tribunal.

2.7.2019 **(JAISHREE THAKUR)**
prem **JUDGE**

Whether speaking/reasoned Yes
Whether reportable No