IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.8469 of 2014
Date of Decision:31.01.2020

Kabutri and others .....Appellants

Vs.

Dayanand and others ....Respondents

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Ms.Mannu, Advocate for
Mr.Abhimanyu Singh, Advocate,
for the appellants.

Mr.Subhash Goyal, Advocate,
for respondent no.3.

AMOL RATTAN SINGH, J. (Oral)

By this appeal the appellants challenge the Award of the learned Motor Accident Claims Tribunal, Mewat at Nuh, dated 07.02.2014, by which they have been awarded a sum of Rs.6,20,000/- as compensation on acocunt of the unfortunate death of Udal, husband of the first appellant and father of the remaining three appellants.

Learned counsel for the appellants has submitted that the findings of the learned Tribunal holding the deceased to be an unskilled worker is wholly erroneous, because he was working as a carpenter and therefore he had to be taken as a skilled worker. However, she has not been able to point to any evidence led before the Tribunal, to prove that the deceased was actually a carpenter and was therefore required to be taken to be a skilled rather than unskilled worker.

Coming therefore to the calculation of compensation awarded, it is seen that the Tribunal has erroneously shown the date of the accident to be

05.03.2012 in paragraph 13 and 14 of the Award whereas in the initial part of the Award it is shown to have taken place on 05.03.2013, which is also borne out from the FIR, as is available on the record of the evidence led before that forum, showing the date of the accident to be 05.03.2013.

Consequently, as regards the minimum daily wages of an unskilled worker, they would have to be taken as per the notification of the Government of Haryana, as applicable in the year 2013 and not in the year 2012.

As per the notifications/instructions of the Government of Haryana, issued by the Labour Commissioner from time to time, the minimum wage for an unskilled worker as on 01.01.2013 was Rs.5,200/- per month (the Tribunal having taken it to be Rs.5,000/- in the year 2012).

That being so, after deduction of $1/4^{th}$ of that amount towards the personal expenses of the deceased, there being four dependents upon him, the loss of income to the appellants would amount to Rs.3,900 per month or Rs.46,800/- annually.

To that sum is to be added 25% towards loss of future prospects of an increased income, in terms of the ratio of the judgment of the Supreme Court in "**National Insurance Company Limited vs. Pranay Sethi and others**" **2017 (4) RCR (Civil) 1009**, thereby bringing the loss of income to the appellants to be Rs.58,500/-, annually, including loss of 'future prospects'.

The deceased having been accepted by the Tribunal to be 47 years of age in terms of the MLR presented by the appellants themselves to that court, (though only as a marked document and not as an exhibited one), with nothing however shown to the contrary, even from the post mortem report, a multiplier of 13 is to be applied to the aforesaid income, thereby coming to a total loss of income to the appellants of Rs.7,60,500/-.

Other than that, they are to be awarded a sum of Rs.70,000/- in terms of the ratio of the same judgment, under the 'conventional heads' of loss of consortium, last rites/funeral expenses and loss of estate.

Hence, the total compensation that is awardable to the appellants is Rs.8,30,500/-, which is so awarded.

The interest on that amount, running from the date of filing of the claim petition till the date of payment, is maintained at the rate of 7.5% per annum, as awarded by the Tribunal, even on the enhanced amount of compensation now awarded.

The appeal is allowed to the aforesaid extent.

January 31, 2020 **(AMOL RATTAN SINGH)**
dharamvir **JUDGE**

Whether speaking/reasoned : YES/NO
Whether Reportable : YES/NO