IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. FAO-116-2020 (O&M)
Date of decision : 01.09.2020

Saneha and others

...Appellants

Versus

Moti Ram and others

...Respondents

2. FAO-1285-2020 (O&M)
Date of decision : 01.09.2020

United India Insurance Company Limited

...Appellant

Versus

Saneha and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: Mr. Ashwani Talwar, Advocate for the appellant.
(In FAO-1285-2020)
for the respondents (In FAO-116-2020)

Mr. Sumit Sangwan, Advocate for the appellant
(In FAO-116-2020)
for the respondents (In FAO-1285-2020)

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ANIL KSHETARPAL, J.

By this order, FAO Nos.116 and 1285 of 2020 which arise from a judgment passed by learned Motor Accident Claims Tribunal, shall stand disposed of. By the impugned judgment passed by the Motor Accident

Claims Tribunal, two claim petitions were decided. In MVA Petition No.111 of 2016, has been filed on account of death of Anil. The Tribunal has awarded a sum of ₹1,16,53,034/-. Whereas in the claim petition No.112 of 2016 filed on account of the death of late Smt. Monika wife of late Sh. Anil, the claimants have been awarded a sum of ₹11,98,000/-. These two appeals are concerning determination of compensation on account of death of late Sh. Anil.

Learned counsel for the parties have also addressed the argument with respect to quantum of compensation payable to the claimants.

It may be noted that the claim petition has been filed by two toddler (daughters of Anil and Monika who died in an accident) and parents of Anil. Thus, there are four claimants. Anil, at the time of death was employed in Maruti Suzuki India Limited at Manesar, Gurugram. He is stated to have got employed in 2010 as Technician. Thereafter, he was promoted as Maruti Associate-III in the year 2012. At the time of death, he was stated to be working as Maruti Associate-IV. As per Manager HR, who has appeared as PW1, Anil drew salary of ₹65,890/- for the month of May, 2016.

Learned Motor Accident Claims Tribunal, has relied upon Ex.P2 Form-16, which enumerates the earning of late Sh. Anil from 01.04.2015 to 31.03.2016. The gross annual income has been taken at ₹7,03,557/-. Keeping in view the age of the deceased i.e. 29 years, 50% addition on account of future prospects has been made and thereafter deduction of ₹1,50,000/- has been implied on account of income tax payable.

This Court has heard learned counsel for the parties.

Learned counsel for the Insurance Company has stated that learned Tribunal has erred in including the amount payable on account of conveyance and uniform maintenance in the annual income. Hence, he submitted that amount of ₹43,200/- was liable to be deducted. He further submitted that father of the deceased who at the relevant time was aged about 55 years, could not be treated to be dependent particularly when he has himself admitted that he was residing in the village having three acres of agricultural land. The deceased alongwith his family were residing in Gurugram. He further contended that on account of consortium, the Motor Accident Claims Tribunal has wrongly awarded ₹80,000/- although as per Five Judge Bench Judgment in ***National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017(10) SC 450.***, only ₹40,000/- is payable.

On the other hand, learned counsel appearing for the claimants, in the appeal has prayed for enhancement. He has drawn attention of the Court to Ex.P1, duplicate copy of the pay slip of the deceased for the month of May, 2016 and contends that the income was ₹74,365/- per month. Therefore, the calculation should have been made accordingly.

Let us first examine the argument of learned counsel for the claimants with reference to Ex.P1. From the careful perusal of Ex.P1, it is apparent that ₹74,365.59 is the gross amount payable to the deceased which includes arrears of Annual Advance ₹20,000/-, Basic Pay ₹900/-, House Rent Allowance ₹360/- and Leave Travel Concession ₹900/-. Apart therefrom, ₹4000/- is towards Uniform Maintenance Reimbursement and

Conveyance Allowance. If all this amount is deducted, the salary of the deceased would be much less. Therefore, the learned Motor Accident Claims Tribunal has correctly relied upon annual statement of the deceased Ex.P2. However, learned Motor Accident Claims Tribunal has committed error in including the amount of Conveyance and Uniform Maintenance Allowance which was personal to the deceased. Hence, from the amount of ₹7,03,557.16, amount of ₹43,200/- shall be liable to be deducted. Thus, the amount comes to ₹6,60,357.16/- per annum.

Learned Motor Accident Claims Tribunal has applied a cut of 1/4th on account of personal expenses. The deceased had left behind two children and aged parents. No doubt, the parents cannot be said to be entirely dependent, however, keeping in view their age and small land holding of the father of the deceased, the parents can be said to be partially dependent. Therefore, the cut on account of self-expenses has correctly been applied. As regards, deduction on account of income tax, there is error which is corrected. As regards payment of solatium, the Five Judge Bench Judgment has laid down that it cannot be more than ₹40,000/-. Thus, on that account also, there is excess payment of ₹40,000/-. The addition of income on account of future prospectus to the extent of 50% has been correctly added keeping in view the young age of the deceased. He was employed as Technician in the year 2010 and was promoted within two years to Maruti Associate-III. At the time of death in the year 2016, he is stated to be working as Maruti Associate-IV.

Keeping in view the aforesaid facts, the amount is recalculated as under:-

Annual Income Assessed		₹6,60,357/-
+ 50% future prospects		₹3,30,178/-
Total		₹9,90,535/-
(-) Income Tax		
Upto ₹2,50,000/-	Nil	
₹2,50,000/- to ₹5,00,000/- @ 10%	₹25,000/-	
₹5,00,000/- to ₹9,90,535/- @ 20%	₹98,107/-	
	₹1,23,107	
(-) Total Income		₹1,23,107/-
		₹8,67,428/-
(-) 1/4th Deduction		₹2,16,857/-
		₹6,50,571/-
Multiplier		₹6,50,571/- x 17
		₹1,10,59,707/-
+ Conventional Heads		
Funeral Expenses	₹15,000/-	
Loss of Estate	₹15,000/-	
Consortium	₹40,000/-	
	₹70,000/-	
Total Compensation		₹1,11,29,707/- (₹1,10,59,707/- + ₹70,000/-)

With these observations, both the appeals are disposed of.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

01.09.2020 **(ANIL KSHETARPAL)**
Pawan **JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No