IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

204(2 cases)

FAO No.3381 of 2002 (O&M)

DATE OF DECISION : 09th DECEMBER, 2021

Ashish Singla and another

…. **Appellants**

Versus

Major Singh and others

…. **Respondents**

(2) FAO No.3382 of 2002 (O&M)

Ashish Singla and another

…. **Appellants**

Versus

Major Singh and others

…. **Respondents**

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Keshav Pratap Singh, Advocate,
Mr. Ankit Mittan and Mr. Vishal Singh, Advocates,
for the appellants.

Mr. Vijay Lath, Advocate and
Mr. Naveen Sharma Moudgill, Advocate,
for respondent Nos.1 and 2.

Mr. Varun Sharma, Advocate for
Mr. Ashwani Talwar, Advocate,
for the respondent-Insurance Company.

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RAJBIR SEHRAWAT, J. (Oral)

This order shall dispose of aforementioned two appeals i.e. FAO No.3381 of 2002 and FAO No.3382 of 2002, since both these appeals are arising from the same award dated 13.02.2001 passed by the

Motor Accident Claims Tribunal, Panchkula (for short, the Tribunal) and are relating to the same accident.

The parties in the present appeals are referred to as they were described in the claim petitions.

The brief facts, as mentioned in the award passed by the Tribunal are; that on 14.02.1998, Kamal Kishore Singla, his wife, Jaimala, his parents, namely, Puran Chand and Reshma Devi along with two children were travelling in Maruti car bearing registration No.PCE-56 and were going from Panchkula to Jalandhar. At about 4.00 p.m., when their car reached in the area of village Singh on Chandigarh-Ropar Highway, it was hit by a truck bearing registration No.CH01-M-9083 which was coming from the opposite side and which was being driven by respondent No.3 in rash and negligent manner. The truck in question struck against the car of Kamal Kishore Singla by going on the wrong side. In the said accident, Kamal Kishore Singla and his wife Jaimala died and Reshma Devi, Puran Chand, Ashish Singla and Sahil Singla received injuries. On account of the said accident, an FIR was also got registered. With these assertions, the claim petitions were filed. In case of deceased Jaimala, the claim petition was filed claiming that she was working as an officer in the Bank. She was earning more than ₹15,000/- per month as salary. She was of the age of 42 years. Hence, an amount of ₹25 Lakh was claimed as compensation. Similarly, in another claim petition, filed on account of death of Kamal Kishore Singla, it was alleged that he was also earning about ₹15,000/- per month. He was of the age of 40 years. In his case as well, an amount of ₹25 Lakh was claimed as compensation.

The respondents contested the claim petitions and pleaded that the deceased Kamal Kishore Singla was driving the car in violation of the traffic rules and came on the wrong side without blowing any horn. The truck was going on its right side and was being driven at a moderate speed. It was the deceased Kamal Kishore Singla who could not control his car. Therefore, the accident occurred on account of his default. Respondent No.4-Insurance Company filed separate written statement claiming that no accident had taken place, as alleged in the claim petitions. It was further pleaded that if the accident had happened, it was because of the wrong driving of the Maruti car by the deceased. The case registered by the police was false and frivolous. Respondent No.5-another Insurance Company, which was the insurer of the car of the deceased, filed separate written statement saying that there was no allegation of rash and negligent driving by deceased Kamal Kishore Singla, raised in the petitions. Hence, they cannot be held liable for anything in the said petitions. It has also come on record that subsequently respondent No.5-Insurance Company was given up before the Tribunal.

The parties led their respective evidence. After hearing the respective parties, the Tribunal has awarded an amount of ₹9.92 Lakh as compensation on account of death of Jaimala and another amount of ₹10.77 Lakh has been awarded on account of death of Kamal Kishore Singla. It is against this award, that the present appeals have been preferred by the claimants, who are the parents of the deceased Kamal Kishore Singla and his minor children.

Arguing the case on behalf of the claimants-appellants, the counsel for the appellants has submitted that the Tribunal has gone wrong in law in assessing the income of deceased Jaimala as ₹14,452/-. Rather as per evidence led on file, the income including other allowances, has been proved as ₹15,340/-. Similarly, income of deceased Kamal Kishore Singla has also been assessed on lower side. Both the deceased were working as Officers in the bank. Therefore, their income as proved on the record has to be taken as their monthly income. The counsel has further submitted that even the allowances, which were being received by the deceased, have been deducted by the Tribunal at the time of assessing their income, which is against the law. It is also argued by the counsel for the appellants that the deduction on account of personal expenses has wrongly been applied at the rate of 50% of the assessed income in both the cases. Since, the number of dependents was three, even if the father of deceased Kamal Kishore Singla is excluded, therefore, the deduction could not have been applied more than $1/3^{rd}$ part. Similarly, relying upon the judgment of the Hon'ble Supreme Court rendered in the case of ***National Insurance Company Ltd. versus Pranay Sethi and others, (2017) 16 SCC 680,*** the counsel has submitted that the Tribunal has erred in not granting any benefit of future prospects. Therefore, that benefit is required to be granted to the appellants. In the end, the counsel for the appellants has submitted that even under conventional heads, the Tribunal has not granted the income at the level which has been quantified by the Hon'ble Supreme Court in case of ***Pranay Sethi*** (supra) and as followed in other judgments of the Hon'ble Supreme Court.

Accordingly, the compensation payable to the appellants has to be enhanced.

On the other hand, the counsel appearing for the respondent-Insurance Company has submitted that the income of both the deceased has rightly been assessed by the Tribunal. The deduction has also rightly been applied at the rate of 50%. However, the counsel for the respondent-insurance company could not even controvert the plea of the appellants that they are entitled to the benefits of future prospects at the rate of 50% of the assessed income. Even, the claim qua the conventional heads the plea of claimants could not be controverted by the counsel for the respondent-insurance company. However, the counsel has submitted that the multiplier has wrongly been applied by the Tribunal. As per the law laid down by the Hon'ble Supreme Court, in case of deceased Jaimala, the multiplier has to be applied at the rate of '14' and in case of deceased Kamal Kishore Singla, the same has to be applied at the rate of '15'. The counsel has further submitted that the amount of compensation has to be reduced by applying appropriate multiplier, though it may be liable to be enhanced on account of future prospects and conventional heads.

Having heard the counsel for the parties and having perused the case files, this Court finds that once the income of deceased Jaimala has been proved on record as ₹15,340/- per month, the same should have been taken by the Tribunal as income of the deceased Jaimala. The income tax has to be deducted out of that and the same has rightly been done by the Tribunal. In case of deceased Kamal Kishore Singla, the income has wrongly been assessed at the rate of ₹13,717/- per month. The same has to be taken as ₹14,890/- per month as per Ex. P-22 led in evidence before the Tribunal. However, in his case also, the income tax has rightly been deducted. But this Court finds substances in the argument of the counsel for the claimants-appellants that in case of both the deceased, the allowances payable to them could not have been deducted from their income. So far as the deduction on account of personal expenses is concerned, the same has also to be applied at the rate of $1/3^{rd}$ in view of the number of dependants surviving the deceased.

This Court also finds substance in the argument of the counsel for the appellants that as per the judgment of the Hon'ble Supreme Court rendered in case of ***Pranay Sethi's*** *case* (supra), the claimants are entitled to the benefit of future prospects at the rate of 50% of the income assessed for the loss of dependency on account of death of Kamal Kishore Singla and at the rate of 30% in case of deceased Jaimala. Like wise the claimants are also held entitled to enhancement of compensation on account of conventional heads; at the rate of ₹44,000/- each; in terms of judgment of Hon'ble the Supreme Court rendered in the case of ***Pranay Sethi*** (supra).

Although the respondent-Insurance Company has not filed an appeal against the award, however, this Court finds substance in the argument of the counsel for the respondent-Insurance Company as well, so far as the applicability of multiplier is concerned, the argument of the counsel for the respondent-Insurance Company is fully supported by the judgments rendered by Hon'ble the Supreme Court rendered in the cases of ***Pranay Sethi*** (supra) and ***Sarla Verma and others Versus Delhi Transport Corporation and others, 2009 (3) RCR (Civil) 77***. Hence, exercising powers under Order 41 Rule 33 CPC, this Court holds that the multiplier applicable in case of deceased Kamal Kishore Singla has to be reduced to '15' and it has to be reduced to '14' in case of deceased Jaimala.

In view of the above, the claimants are held entitled to the enhanced compensation on account of death of Jaimala and on account death of Kamal Kishore Singla; as under:

In case of deceased Jaimala, FAO No.3382 of 2002:-

Sr. No.	Head	Amount assessed
1	Income	₹15,340/- per month
2	Deduction of Income Tax	₹1,600/-
3	Income after deducting tax	₹15,340 – 1,600 = ₹13,740/-
4	Deduction @ 1/3rd	₹13,740 x 1/3rd = ₹4,580/- (₹13,740 – 4580 = ₹9,160/-)
5	Future prospects @ 30% Monthly dependency	₹9,160 X 30% = ₹2,748/- ₹9,160 + 2,748 = ₹11,908/-
6	Multiplier	14
7	Total dependency	₹11,908 x 12 x 14 = ₹20,00,544/-
8	Conventional Heads	₹1,21,000/-
9	**Total**	**₹21,21,544/-**
10	Compensation awarded by the Tribunal	₹9,92,000/-
11	**Enhancement**	**₹21,21,544 – 9,92,000 = ₹11,29,544/-**

In case of deceased Kamal Kishore Singla, FAO No.3381 of 2002:-

Sr. No.	Head	Amount assessed
1	Income	₹14,890/- per month
2	Deduction of Income Tax	₹1,500/-
3	Income after deducting tax	₹14,890 – 1,500 = ₹13,390/-
4	Deduction @ 1/3rd	₹13,390 x 1/3rd = ₹4,463/-

Sr. No.	Head	Amount assessed
		(₹13,390 – 4463 = ₹8,927/-)
5	Future prospects @ 50% Monthly dependency	₹8,927 X 50% = ₹4463/- ₹8927 + 4463 = ₹13,390/-
6	Multiplier	15
7	Total dependency	₹13,390 x 12 x 15 = ₹24,10,200/-
8	Conventional Heads	₹2,09,000/-
9	**Total**	**₹26,19,200/-**
10	Compensation awarded by the Tribunal	₹10,77,000/-
11	**Enhancement**	**₹26,19,200 – 10,77,000 = ₹15,42,200/-**

The interest upon the enhanced amount shall be at the same rate as was awarded by the Tribunal.

In view of the above, both the appeals are allowed. The award passed by the Tribunal is modified in the terms mentioned above.

(RAJBIR SEHRAWAT)
JUDGE

09th DECEMBER, 2021
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Whether speaking/reasoned: *Yes*
Whether Reportable: *Yes*