125 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-6793-CII-2021 in/and
FAO-404-2006 (O&M)
Date of decision : August 24, 2021

Vimla Mehta and another .....Appellant

Versus

Mohan Lal and others .....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr.R.S. Mamli, Advocate for the appellants.

Mr. R.C. Gupta, Advocate for respondent No. 3.

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LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

CM-6793-CII-2021

Prayer in the application is for listing this appeal for hearing as the issues involved stand crystalised by various judgments of the Hon'ble Sureme Court.

Notice of the application.

Mr. R.C. Gupta, Advocate accepts notice on behalf of respondent No.3 and does not raise any serious objection to the listing of this appeal.

At request and with consent of learned counsel for the parties, appeal is taken up for hearing today itself.

Application is disposed of.

FAO-404-2006

Present appeal has been filed by the claimants for enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter referred to as the 'Tribunal') on account of death of Vijay Bhushan Mehta vide award dated 03.09.2005.

Brief facts necessary for adjudication of the case are that the appellants/claimants i.e. parents of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Vijay Bhushan Mehta on 19.06.2003, in a motor vehicle accident, caused due to rash and negligent driving of the offending vehicle, i.e. truck bearing registration No. HR-29-C-8854 by respondent No.1.

Learned Tribunal on considering the evidence on record, facts and circumstances concluded that Vijay Bhushan Mehta died in the accident which took place on 19.06.2003 due to rash and negligent driving of the offending truck bearing registration No. HR-29-C-8854 by respondent No. 1. Learned Tribunal while accepting that gross salary of deceased was Rs.15,690/-, held income of the deceased to be Rs.10,600/- per month, after deducting the amount towards GIS, GPF etc. and awarded a sum of Rs.3,45,000/- with interest at the rate of 7.5% per annum from the date of filing of the claim petition till date of actual realisation of the award. Deduction of 1/3rd was effected. Multiplier of 8 was applied. Additionally, a sum of Rs.5160/- was awarded on account of transportation charges. Aggrieved of the quantum of compensation, claimants have filed this appeal.

Learned counsel for the appellants submits that appellant No. 2 has since passed away and is survived by appellant No. 1.

Learned counsel for the appellants submits that income of the deceased has been wrongly assessed as Rs.10,600/- per month by the learned Tribunal. Deductions on various counts as shown in the salary slip of the deceased have to be included in his income. Furthermore, in terms of judgment of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, increment on account of future prospects at the rate of 50% should be afforded. Compensation on account of loss of consortium etc. is also sought to be enhanced. It is, thus, prayed that compensation awarded to the claimants be reworked accordingly.

Learned counsel for the respondent - insurance company while refuting the arguments raised by learned counsel for the appellants submits that adequate compensation has been awarded by the learned Tribunal which calls for no further enhancement. It is submitted that compensation has been rightly assessed, thus, impugned award dated 03.09.2005 be upheld.

I have heard learned counsel for the appellants and have gone through the available file.

There is no dispute that Vijay Bhushan Mehta lost his life due to injuries received by him in a motor vehicle accident, which took place on 19.06.2003 due to the rash and negligent driving of truck bearing registration No. HR-29-C-8854, by respondent No.1. Finding of the learned Tribunal on this issue has attained finality. It is also not disputed that the deceased was 43 years old at the time of the accident, his date of birth being 14.11.1960.

Income of the deceased has, however, been incorrectly assessed by the learned Tribunal as Rs.10,600/- per month. Learned Tribunal has wrongly deducted a sum of Rs.5,024/- on account of house rent, GIS and GPF. Details of the deduction as per salary certificate Ex.P2, with the total salary of Rs. 15,690/- are Rs.4000/- towards GPF, Rs.120/- towards GIS, Rs.104/- towards house rent and Rs.800/- towards income tax. It is only the sum of Rs.800/- towards income tax which has to be deducted from the salary of the deceased to assess his income. Deductions made in the salary on account of GIS, GPF, CPF etc. have to be counted towards income of the deceased. It has been held by the Hon'ble Supreme Court in **Shyamwati Sharma and others versus Karam Singh and others 2010 (4) SCC (Civil) 626** that any deductions shown in the salary certificate as deductions towards GPF, life insurance premium, repayments of loans etc., should not be excluded from the income. Thus, income of the deceased is assessed as Rs.14,890/- per month (15,690-800) i.e. Rs.1,78,680/- per annum. In view of the guidelines of the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), increment on account of future prospects at the rate of 30% (53604/-) is afforded, as the deceased was 43 years old at the time of accident and a government employee, which takes income of the deceased to Rs.2,32,284/- per annum. In view of the guidelines laid down by the Hon'ble Supreme Court in case of ***Smt. Sarla Verma and others Versus Delhi Transport Corporation and another*** 2009 (3) RCR (Civil) 77, 50 % deduction is to be applied as the deceased was a bachelor at the time of the accident (his marriage having been dissolved through a decree of divorce dated 14.09.1991, thereby rendering income of the deceased to be Rs.1,16,142/-(232284-116142). Multiplier of 8 has been incorrectly applied as the same has to be applied with reference to the age of the deceased and not his parents. Thus, applying a multiplier of 14, dependancy of the claimants is assessed as Rs.16,25,988/- (116142x14). The claimants are also entitled to Rs.15,000/- each for funeral expenses and loss of estate. In terms of the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Limited versus Nanu Ram Alias Chuhru Ram and other 2018 (4) RCR (Civil) 333** and decision of the Hon'ble Supreme Court in **United India Insurance Co. Ltd. Versus Satinder Kaur @ Satwinder Kaur and others 2020 (3) RCR (Civil) 75** appellants are held entitled to Rs.40,000/- each on account of loss of filial consortium. Claimants are, thus, entitled to total compensation of Rs.17,35,988/- detailed as under:-

Loss of dependency (116142x14)	Rs.16,25,988/-
Loss of filial consortium	Rs.80,000/-
Loss of estate	Rs.15,000/-
Funeral expenses	Rs.15,000/-
Total	Rs.17,35,988/-

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above. Appellants are entitled to interest at the rate of 6% per annum on the enhanced amount from the date of filing of the petition till realization.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants shall enure.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

(Lisa Gill)
Judge

August 24, 2021
rts

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No