119 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-6027-CII-2021 and
CM-1514-CII-2021 in
FAO-959-2008 (O&M)
Date of decision : August 09, 2021

Savitri Devi and others .....Appellants
Versus
State of Punjab and others .....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Ashish Singh, Advocate for the appellants.

Mr. Abhay Pal Singh Gill, AAG, Punjab.

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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-6027-CII-2021

Prayer in the application is for placing on record amended calculation sheet of amount of compensation. Same is taken on record subject to just exceptions.

Application is disposed of.

CM-1514-CII-2021

Prayer in this application is for disposal of the appeal in the light of judgments of the Hon'ble Supreme court in **National Insurance Company vs. Pranay Sethi 2017 ACJ 2700** and **New India Assurance Company vs. Somwati and others 2020 ACJ 2321.** Notice in this application was issued on 24.02.2021. The matter was adjourned to enable learned counsel for the State to go through the salary slip of the deceased. It is to be noted that this appeal was directed to be listed for final hearing on 27.11.2018 vide order dated 08.10.2018 passed in CM-2821-CII-2018. Learned counsel for the State is unable to deny that the position of law as applicable in this case is crystallised in the light of various judgments of the Hon'ble Surpeme Court as mentioned above.

Accordingly, at request of learned counsel for the appellant and with consent of learned counsel for the State, appeal is taken on Board for hearing today itself.

Application is disposed of.

FAO-959-2008

Present appeal has been filed by the claimants for enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as the 'Tribunal') on account of death of Puran Chand vide award dated 02.11.2007.

Brief facts necessary for adjudication of the case are that the appellants/claimants i.e. widow, children and mother of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Puran Chand on 28.02.2006, in a motor vehicle accident, caused due to rash and negligent driving of the offending vehicle, i.e. Qualis car bearing registration No. CH-01-G1-0873 by respondent No.3.

Learned Tribunal on considering the evidence on record, facts and circumstances concluded that Puran Chand, admittedly an employee of Chandigarh Industrial and Tourism Development Corporation Limited (CITCO) working at Shivalik View, died in the accident which took place on 28.02.2006 due to rash and negligent driving of the offending Qualis car bearing registration No. CH-01-G1-0873 by respondent No. 3. Learned Tribunal while accepting that gross salary of deceased was Rs.9032/-, held income of the deceased to be Rs.6,133/- per month, after subtracting various deductions and awarded a sum of Rs.7,00,000/- 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, keeping in view the number of dependants. Multiplier of 14 was applied as the deceased was 40 years old at that time. Additionally, a sum of Rs.5000/- on account of loss of consortium was awarded and a sum of Rs. 6200/- for transportation charges. Aggrieved of the quantum of compensation, claimants have filed this appeal.

Learned counsel for the appellants submits that income of the deceased has been wrongly assessed as Rs.6,133/- 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 02.11.2007 be upheld.

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

There is no dispute that Puran Chand lost his life due to injuries received by him in a motor vehicle accident, which took place on 28.02.2006 due to the rash and negligent driving of Qualis car bearing registration No. CH-01-G1-0873, by respondent No.3. Finding of the learned Tribunal on this issue has attained finality. It is also not disputed that the deceased was 37 years old at the time of the accident, his date of birth being 20.06.1969.

Income of the deceased has, however, been incorrectly assessed by the learned Tribunal as Rs.6,133/- per month. It is relevant to note that record of this case was admittedly burnt in the fire which took place on the High court premises in the year 2011. Copies of the exbihits before the learned Tribunal are not available with either of the counsel. However, learned counsel for the State has circulated a copy of salary slip of the deceased as on 28.02.2006. Print out of the same is taken on record subject to just exceptions. As per the said salary slip, total salary of the deceased was Rs.8,846/-. Deductions made in the salary on account of EPF, 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. Therefore, income of the deceased is assessed as Rs.8846/- per month i.e. Rs.1,06,152/- per annum. It is only the component of income tax which has to be deducted. Admittedly, income tax liability for financial year 2005-06, assessment year 2006-07 for income between Rs.1,00,000/- to Rs.5,00,000/- is 10%. Therefore, tax liability of the deceased would be Rs.615 p.a. which is obviously set of against the permissible standard deductions, thus, income is assessed as Rs.8846/- per month i.e. Rs.1,06,152/- 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 50% (53076/-) is afforded, as the deceased was 37 years old at the time of accident, which takes income of the deceased to Rs.1,59,228/- 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, deduction of $1/4^{th}$ is to be applied as number of dependants is four (4), thereby rendering income of the deceased to be Rs.1,19,421/-(159228-39807). Applying a multiplier of 15, dependancy of the claimants is assessed as Rs.17,91,315/- (119421x15). The claimants are also entitled to Rs.15,000/- each for funeral expenses and loss of estate. The claimant widow is entitled to Rs.40,000/- on account of loss of consortium. 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 dated 14.03.2019 of this Court in **United India Insurance Co. Ltd. Versus Satinder Kaur @ Satwinder Kaur and others 2020 (3) RCR (Civil) 75** appellants No. 2 and 3 i.e. children of the deceased are entitled to Rs.40,000/- each on account of loss of parental consortium and appellant No. 4 to Rs.40,000/- on account of loss of filial consortium. Claimants are, thus, entitled to total compensation of Rs.19,81,315/- detailed as under:-

Loss of dependency (119421x15)	Rs.17,91,315/-
Loss of spousal consortium	Rs.40,000/-
Loss of parental consortium	Rs.80,000/-
Loss of filial consortium	Rs.40,000/-
Loss of estate	Rs.15,000/-
Funeral expenses	Rs.15,000/-
Total	Rs.19,81,315/-

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 09, 2021
rts

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