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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO- 2612-2001(O&M)
Decided on:-12.09.2022

Balbir Kaur and others ....Appellants

vs.

Sukhdev Singh @ Raju and others ....Respondents.

CORAM: **HON'BLE MR. JUSTICE HARKESH MANUJA**

Present: Mr. D.S. Pheruman, Advocate for the appellants.
Mr.Vinod Gupta, Advocate, for
respondent No.3-Insurance Company.

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HARKESH MANUJA J.

By way of present appeal, the challenge has been made to an award dated 01.09.2000, passed by learned Motor Accident Claims Tribunal, Amritsar, (hereinafter referred to as "Tribunal"), for seeking enhancement of compensation.

2. Accident in the present case took place on 13.12.1995, wherein, one Manjit Singh lost his life, who happened to be husband of appellant No.1 and father of appellants No.2 to 4. At the time of death, deceased-Manjit Singh was 35 years of age and was employed as Sub-Inspector in the Agricultural Department, Govt. of Punjab. The appellants filed claim petition before the Tribunal, praying for award of compensation alleging that Manjit Singh lost his life on account of rash and negligent driving of respondent No.1.

3. Learned Tribunal vide its impugned award dated 01.09.2000, awarded a sum of Rs.4,50,000/- as compensation along with 12% interest thereon from the date of filing of claim petition till its realization.

4. In the present appeal, learned counsel for the appellants submits that the learned Tribunal has gone wrong while assessing the compensation by taking monthly salary of the deceased to be Rs.3719/-. He further submits that in view of the statement of AW-2 Joginder Pal Sharma, the salary of the deceased should have been considered as Rs.4700/- per month and compensation was required to be awarded by applying multiplier of 16 after adding the benefit of future prospect @ 50%. He also submits that the learned Tribunal committed an error while having failed to award compensation under the conventional heads.

5. On the other hand, learned counsel for the respondent-Insurance Company submits that just and adequate compensation has already been awarded in favour of the appellants, as such, there is no scope for further enhancement in the facts and circumstances of the present case. He also submits that income of the deceased was rightly considered to be @ Rs.3719/- per month based on the statement made by AW-2 and the salary certificate produced by him, besides making a challenge to the award of interest @ 12% per annum by the learned Tribunal.

6. Having heard learned counsel for the parties and on perusal of the case file, I find merit in the contention raised by learned counsel for the appellants.

7. Statement of AW-2 Joginder Pal Sharma, Senior Assistant of the office of Chief Agricultural Officer, Amritsar clearly proves on record that the basic pay of the deceased as per the revised pay scale was fixed @ Rs.4700/-. There was no rebuttal to the said part of the statement of AW-2. In the absence thereof, there was no reason with the learned Tribunal to have ignored this part of statement made by AW-2 and as such,

the pay/salary of the deceased should have been taken @ Rs.4700/- per month. Even otherwise, it may be pointed out here that Rs.4700/- was merely the basic pay in the pay scale of Rs.4020-6200/- on which the deceased must be drawing other allowances as well. However, in the absence of any proof in this regard, the basic pay @ Rs.4700 p.m. only is being taken for the purposes of determining compensation. Taking the age of deceased to be 35 years, the multiplier of "16" was required to be applied instead of "15". Further, the deceased was having a permanent Government job, therefore, considering his age to be 35 years, enhancement of 50% was required to be awarded towards future prospects on his actual salary. Learned Tribunal also committed a mistake while not awarding any compensation under the conventional heads. Considering the law laid down by the Hon'ble Supreme Court in ***"National Insurance Company Ltd. vs. Pranay Sethi and others***; 2017(4) RCR (Civil) 1009, the claimants are held entitled for a sum of Rs.15,000/- on account of funeral expenses, besides another sum of Rs.15,000/- on account of loss of estate, in addition to a sum of Rs.1,60,000/- (Rs.40,000/- each for all the claimants as spousal & parental consortium). Considering the fact that the deceased was to maintain a large family of 5 persons including himself, it may be appropriate to apply $1/4^{th}$ as deduction towards his self-expenditure.

8. In view of the discussions made hereinabove, the appellants are entitled for following enhanced compensation, as detailed in the table given hereunder :-

Sr.No.	**Heads**	**Calculation**
1.	Earning of deceased	Rs.4700/- per month
2.	50% of above to be added as future	Rs.4700+Rs.2350 =

	prospects	Rs.7050 per month
3.	1/4th of Sr. No.(ii) to be deducted as personal expenses of the deceased	Rs.7050-Rs.1762=Rs.5288
4.	Compensation after multiplier of 16 is applied	(Rs.5288x12x16) =Rs.10,15,296/-
5.	Consortium (40,000 x 4 = 1,60,000 for all claimants)	Rs.1,60,000/-
6.	Funeral Expenses	Rs.15000/-
7.	Loss of Estate	Rs.15,000/-
	Total Compensation	**Rs.12,05,296/-**
	Amount awarded by the Tribunal	**Rs.4,50,000/-**
	Enhanced amount	**Rs.7,55,296/-**

Though an argument has been raised by learned counsel for respondent Insurance Company regarding the award of interest at the rate of 12% par annum to be on the higher side, however, in the absence of any appeal having been filed at the instance of insurance company or any cross-objections from their side, I find no reasonable justification to interfere in the interest awarded @ 12% by the learned Tribunal in the facts and circumstances of the present case from the date of filing of claim petition till the realization of the awarded amount.

9. Accordingly, the present appeal is partly allowed in the aforesaid terms.

10. Pending miscellaneous application, if any, shall also stand disposed of.

12.09.2022 **(HARKESH MANUJA)**
sonika **JUDGE**

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