217 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-432-2021 (O&M)
and
Cross Objection 91-2021(O&M)
Date of decision: 03.02.2022

The Oriental Insurance Company Limited, Hisar
....Appellant

Versus

Natwar Singh and others
..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Harsh Chopra, Advocate for the appellant

Mr. Neeraj Sheoran, Advocate for claimants-respondent no.1 and 2/cross objectors

Mr. Amit Khatkar, Advocate for respondent no.3

<u>ANIL KSHETARPAL, J (Oral)</u>

The hearing of the case is being held through video conferencing on account of restricted functioning of the Courts.

This order shall dispose of FAO-432-2021 filed by the Insurance Company as well as cross objection no.91-2021 filed by the claimants.

Learned counsel representing the parties does not dispute the correctness of the findings of fact arrived at by the Motor Accident Claims Tribunal, Hisar (hereinafter referred to as 'the Tribunal') with regard to the involvement of the vehicle as well as findings with regard to the rash and negligent driving of the driver of the bus. As per the case of the claimant, deceased Dilbagh Singh alongwith his cousin Rampal, after loading the wheat in the tractor trolley, was going to the Grain Market, Hisar, for selling their produce. The accident took place when a bus owned by the Haryana Roadways struck the tractor trolley from behind resulting in the death of late Sh. Dilbagh Singh. The claim petition was filed by Natwar Singh, his son and Chander Lata, his mother. The Tribunal, on appreciation of the evidence, held that the claimants are entitled to a total compensation of Rs.18,37,200/- after assessing the income of the deceased at the rate of Rs.12,000/- per month.

Heard learned counsel for the parties at length and with their able assistance perused the paper book as well as the record of the Tribunal, which has been requisitioned. Learned counsel representing the Insurance Company has submitted that the Tribunal has erred in assessing the income of the deceased at the rate of Rs. 12,000/- per month in the absence of the documentary evidence. He submits that in such circumstances the Tribunal was bound to assess the income on the basis of the notification issued by the Labour Commissioner on 10.02.2021 in exercise of powers under the Minimum Wages Act, 1948. He submits that at the relevant time, the minimum wages were Rs.8500/- per month . He relies upon a judgment passed by a Coordinate Bench in FAO-792-2019 titled as **'Oriental Insurance Co. Ltd. vs. Hanuman Singh and others** decided on 04.02.2019. He further contends that the Tribunal has committed an error while directing the Insurance Company to pay the amount of compensation alongwith interest at the rate of 6%

per annum from the date of filing of the claim petition till its realization. He submits that the Supreme Court while deciding Civil Appeal No.2526-2012 (**Inayath Rajasab Attar vs. Shantavva)** decided on 19.02.2020, has ordered payment of interest at the rate of 6% per annum from the date of the judgment of the High Court.

Per contra, learned counsel representing the claimants submits that the deceased was an agriculturalist and therefore, the dependency could not be assessed treating the deceased to be an unskilled labour. He further submits that the Tribunal has erred in directing the payment of the amount alongwith 6% per annum interest, which is on the lower side.

After having heard learned counsel for the parties, this Court proceeds to decide the appeal as well as the cross objections. It is the case of the claimants that on 24.04.2018 Dilbagh Singh alongwith his cousin Rampal was going to the Grain Market, Hisar, on his tractor trolley to sell his harvest. No doubt, the claimants have failed to produce evidence to prove that the deceased was an owner of 10 acres of land, however, the Tribunal, on appreciation of evidence, has found that the deceased was an agriculturalist.

Keeping in view the aforesaid facts, it would not be appropriate to treat an agriculturalist to be an unskilled worker. Hence, the judgment relied upon by the learned counsel representing the appellant in **Oriental Insurance Company (supra)** is not applicable. Learned counsel representing the Insurance Company was given opportunity to cross examine Natwar Singh, one of the claimants, however, he failed to impeach the credibility of his deposition.

With regard to second argument of the learned counsel with reference to the rate of interest, it may be noted that the Tribunal has only awarded interest at the rate of 6% per annum from the date of filing of the claim petition. No doubt, the Hon'ble Supreme Court in **Civil Appeal no. 2526-2012**, while modifying the judgment of the High Court reduced the rate of interest to 6% per annum and ordered it to be paid from the date of judgment of the High Court. A copy of the order has been produced, which reads as under:-

> "After hearing the learned counsel for the parties, we are of the opinion that the impugned judgment does not warrant interference in exercise of our jurisdiction under Article 136 of the Constitution of India.
>
> "However, the interest directed by the High Court to be paid @ 12% p.a from one month after the accident till payment is made, is reduced to 6% p.a. The interest shall be calculated from the date of the judgment of the High Court. To that extent, the impugned judgment is modified.
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> The appeal is disposed of accordingly."

From the careful reading of the order, it is evident that in the facts of the case, the Hon'ble Supreme Court reduced the rate of interest to 6% per annum and ordered its payment from the date of judgment of the High Court. However, it would not be appropriate to hold that the Hon'ble Supreme Court in the aforesaid judgment laid down as a ratio decidendi that in every case the interest is to be paid only from the date of judgment of the High Court or the rate of interest should be at the rate of 6% per annum.

As regards, the argument of the learned counsel representing the claimants, it may be noted that the Tribunal has already held them entitled to Rs.18,37,000/- alongwith interest at the rate of 6% per annum. The claim petition has been decided within a period of 2 ½ years.

Hence, no ground to modify the rate of interest is made out. Therefore, the appeal as well as the cross objections are hereby dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

03.02.2022 **(ANIL KSHETARPAL)**
rekha **JUDGE**
Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No