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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-4193-2022

DATE OF ORDER: 23.12.2022

Sunita Kakkar and Others

.....Appellants

Vs.

Dr. Rishu Goyal and Another

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: Mr. Shakti Mehta, Advocate for the appellants.

Nidhi Gupta, J.

This is an appeal filed by the claimants seeking enhancement of Award of Rs.4,05,000/- granted to them by way of compensation on account of death of deceased-Baldev Raj Kakkar. Claimants are the widow of the deceased, and the major sons of the deceased. Said compensation was awarded by Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter referred to as "the learned Tribunal") in MACP Case No.352 of 2018 vide Award dated 06.05.2022.

Learned Tribunal on the basis of materials placed before it concluded that the deceased-Baldev Raj Kakkar had died due to injuries received in accident that took place on 05.03.2018 due to rash and negligent driving of Hyundai Creta bearing registration No.HR-02-AL-4280 (hereinafter referred to as "the offending vehicle") being driven by respondent No.1 herein (driver-cum-owner of offending vehicle). Further, interest at the rate of 7.5% per annum was awarded from the date of filing

the claim petition till date of realization. Respondents were held jointly and severally liable to pay the compensation.

The Id. counsel for the appellants assails the impugned Award on the ground that the learned Tribunal has not considered the sons of the deceased-the claimants/ appellants No.2 and 3, aged 36 and 34 years respectively, as dependents of the deceased and nothing has been granted to them by way of compensation. Second contention raised on behalf of appellants is that the deceased was a retired Teacher and was taking tuition and was earning Rs.35,000/- per month. However, learned Tribunal has taken monthly income of the deceased to be only Rs.29,451/. It is further submitted that the learned Tribunal has awarded interest at the rate of 7.5% only and the same ought to be enhanced.

I have heard learned counsel for the appellants.

A perusal of the impugned Award shows that appellants/claimants No.2 and 3 have been awarded Rs.44,000/- each on account of loss of parental consortium. A perusal of the Award also reveals that no evidence whatsoever has been led by the appellants to prove that appellants/claimants No.2 and 3 were dependent on the deceased. As such, this argument of learned counsel for the appellants stands rejected.

As regards the income of the deceased, there is a clear finding of the learned Tribunal that *“there is no cogent evidence which can establish the salary/income of deceased Baldev Raj Kakkar as alleged by claimants. Merely, appending certain documents indicating that he has applied for re-engagement of retired teachers on MIS Portal does not by*

itself indicate that he had any positive prospects of getting reengaged into the profession. Furthermore, no other documentary and oral evidence has been indicated on record to establish that deceased was taking tuitions and earning any amount from the same". It has also come on record that as per Exhibit P13 Income Tax Return for assessment year 2017-18, gross total income of the deceased is Rs.3,53,412/- which comes to Rs.29,451/- per month. It has further come on record that the deceased was getting an amount of Rs.23,478/- as monthly pension, which is now being received by appellant/claimant No.1 (widow of the deceased), who has also admitted in her cross-examination that she is getting an amount of approximately Rs.25-26 thousand per month as pension. As such, it is clearly established on record that the deceased was earning Rs.29,451/– per month.

Even now, learned counsel for the appellants is unable to controvert any of the above findings, or support his contentions. No ground is made out to enhance rate of interest as granted by the Id. Tribunal, which is just and correct in the facts of the case.

Accordingly, I see no ground to interfere in the Award passed by the learned Tribunal as the same is reasonable and just. Present appeal is hereby dismissed.

23.12.2022

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No