IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CM-1626-CII-2022 in/and
FAO No.1696 of 2012
Date of Decision : 02.08.2022

Shabnam Kumari & Ors. ....Appellants

VERSUS

Deepak Kumar & Ors. ....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

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

Mr. Vinod Gupta, Advocate for respondent no.3.

ALKA SARIN, J. (Oral)

CM-1626-CII-2022

This is an application under Section 151 of the Code of Civil Procedure, 1908 for preponement of the date of hearing in the main appeal (FAO-1696-2012) from 18.10.2022 to an early date.

Notice of the application.

Mr. Vinod Gupta, Advocate, appearing on behalf of respondent no.3, who is the only contesting respondent, states that he has no objection if the present application is allowed.

For the reasons stated in the application, the same is allowed. With the consent of learned counsel for the parties, the main appeal, which is pending for 18.10.2022, is taken on Board today itself.

CM stands disposed off.

FAO-1696-2012 (O&M)

The present appeal has been preferred by the claimants against the award dated 14.12.2011 passed by the Motor Accident Claims Tribunal, Ambala (for short the 'Tribunal').

The only ground raised in the present case is *qua* the quantum of compensation awarded to the claimant-appellants. Learned counsel for the claimant-appellants would contend that despite the income tax returns being on the record, the same were not considered while assessing the income of the deceased. It is further the contention that in case the ITRs (Ex.P4 to Ex.P6) are considered then the annual income of the deceased, as per ITR Ex.P5, would come to Rs.1,75,000/- which has been duly proved by the Income Tax Officer who stepped into witness-box as PW-5. Learned counsel for the claimant-appellants has further contended that no amount was awarded towards loss of future prospects as per the law laid down by Hon'ble Supreme Court in case of **National Insurance Company Ltd. vs. Pranay Sethi & Ors. [2017(4) RCR (Civil) 1009]**.

Per contra learned counsel for respondent no.3 has contended that the income has been properly assessed by the Tribunal. The learned counsel is, however, not in a position to deny the fact that ITRs produced by the claimant-appellants were duly proved before the Tribunal and the ITR for the year 2010-11 reflects that the income of the deceased was Rs.1,75,000/- per annum.

The Tribunal awarded the compensation as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income of the deceased	Rs.5000
2	Dependency of the claimants after deduction of 1/4th	[5000-1250] = Rs.3750
3	Multiplier applied	15
4	Total dependency of the claimants	[3750x12x15] = Rs.675000

5	Future expenses, loss of estate and consortium	Rs.9500
	Total amount awarded	**Rs.6,84,500 rounded off to Rs.6,85,000**

Keeping in view the ITR for the year 2010-11, income of the deceased is assessed as Rs.1,75,000/- per annum. Further, as per the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case (*supra*), **Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. [2009(6) SCC 121]** and **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & Ors. [2018(18) SCC 130]**, an addition of 40% is to be made towards the future prospects. In view of the settled law, the claimant-appellants would also be entitled to the enhanced compensation as well as compensation under the conventional heads. They are also entitled to 10% increase under the conventional heads as well as under the head of consortium as per the law laid down in **N. Jayasree & Ors. vs. Cholamandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**. The modified compensation is re-worked as under :

Sr. No.	Heads	Compensation Awarded
1	Annual Income of the deceased	Rs.175000
2	Annual dependency of the claimants after deduction of 1/4th	[175000 - 43750] = Rs.1,31,250
3	Future Prospects @ 40%	[131250 + 52500] = Rs.1,83,750
4	Multiplier of 15	[183750 x 15] = Rs.27,56,250
5	Loss of Estate	Rs.16,500
6	Funeral Expenses	Rs.16,500

7	Loss of Consortium (i) Parental (3 children) (ii) Spousal (iii) Filial	 Rs.1,32,000 (44000 x 3) Rs.44,000 Rs.44,000 (Total Rs.2,20,000)
	Total Compensation	**Rs.30,09,250/- Rounded off to Rs.30,10,000/-**
	Enhanced Compensation	**Rs.23,25,000/-**

The enhanced amount of Rs.23,25,000/-, over and above the amount awarded by the Tribunal, shall also attract interest @ 7.5% from the date of filing of the claim petition till the realization of the entire amount. The enhanced amount of compensation shall be apportioned between the claimant-appellants as directed by the Tribunal.

In view of the above discussion, the present appeal is allowed and the award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

02.08.2022
jk

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO