IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

449 FAO-1078-2014 (O&M)
Date of Decision: 09.09.2022

Rajinder Kaur .... Appellant

Versus

Balwinder Singh and others .... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Ms. Jasleen Kaur, Advocate
for the appellant.

Mr. Satpal Dhamija, Advocate
for respondent No.3-insurance company.

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JAGMOHAN BANSAL, J. (Oral)

1. The appellant through instant appeal is seeking enhancement of compensation awarded vide award dated 01.10.2013 passed by Motor Accident Claims Tribunal, Patiala (for short 'Tribunal') whereby learned Tribunal has awarded a sum of Rs.3,27,500/- along with interest @ 8% per annum from the date of filing of the claim petition.

2. Facts emerging from record and necessary for the adjudication of present appeal are that on 29.03.2012, Inder Singh (deceased) along with his son-in-law (Surinder Singh) was going on scooty bearing registration No.CH-03/3484 and met with an accident with bus bearing registration No.PB-09N/6701 of M/s Prince Company Pvt. Ltd., Kapurthala. The deceased, as a result of accident, got seriously injured. The son-in-law of deceased with the help of passers-by took away Inder Singh to Rajinder Hospital,

Patiala, from where he was referred to PGI, Chandigarh and there he expired on 04.04.2012. On the complaint of Surinder Singh, FIR No.92 dated 30.03.2012 was registered at Patiala.

3. The appellant filed a claim petition under Section 166 of 1988 Act before learned Tribunal seeking compensation on account of death of Inder Singh. Learned Tribunal after considering the documentary and oral evidences held the driver of the offending vehicle guilty for the accident and awarded compensation of Rs.3,27,500/- to the claimant in the claim petition.

4. Learned counsel for the appellant seeking enhancement of compensation contended that deceased was highly qualified person. He had retired as Additional Managing Director from Punjab State Co-operative Bank Ltd. in the year 1996. After his retirement, he was working as property dealer and earning more than Rs.60,000/- per month whereas learned Tribunal has assessed income of deceased as Rs.4500/- per month. Learned Tribunal has not awarded any amount under the heading 'attendant charges'. The deceased remained admitted in two different hospitals for a period of 7 days. The appellant incurred expenses of transportation of deceased from Rajindra Hospital, Patiala to PGI, Chandigarh and thereafter carrying dead body back to Patiala. Learned Tribunal has not awarded transportation expenses which should be at least Rs.15,000/- The rate of interest should be 18% whereas learned Tribunal has granted interest @ 8% per annum.

5. Learned counsel for the respondent supported findings of learned Tribunal and contended that there is no basis to claim

income higher than assessed by learned Tribunal. The deceased had retired from Co-operative Bank as Additional Managing Director, however, there is no evidence of income from property dealing. The deceased was 75 years old and there is no reason to asses income more than Rs,4500/- per month. The deceased was not filing income tax return, thus, it would be unfair to assess the income other than assessed by learned Tribunal.

6. I have perused the record and heard arguments of both sides.

7. It is conceded fact that the deceased was B.A.-L.L.B. and C.A.-I.I.B. and prior to his retirement, he was working as Additional Managing Director. However, there is no documentary evidence to conclude that income of deceased was Rs.60,000/- per month. The appellant has failed to bring on record any documentary evidence in the form of ITR, bank statement or such other document to prove that income of the deceased was more than as assessed by learned Tribunal. In the absence of any documentary evidence, I find myself unable to enhance income assessed by learned Tribunal. However, I find that some enhancement deserves to be granted. The deceased was travelling on scooty which shows that he was a healthy person. He had retired as Additional Managing Director from Co-operative Bank. He remained in hospital for about one week in two different hospitals. There were six claimants before learned Tribunal i.e. wife of deceased as well as five children. Learned Tribunal has granted a sum of Rs.1,25,000/- towards 'loss of consortium' and 'funeral expenses'. No amount has been awarded towards cost of

transportation, cost of attendant, cost of medical expenses which were incurred by family on account of admission of deceased in two different hospitals.

8. Keeping in mind entire facts and circumstances, I am of the opinion that it would be just and fair if amount of compensation is enhanced by Rs.72,500/- making the compensation awarded Rs.4 lakhs instead of Rs.3,27,500 awarded by learned Tribunal.

9. In view of the above discussion and findings, I order to enhance compensation awarded by learned Tribunal from Rs. 3,27,500/- to Rs. 4 lakhs along with interest as awarded by learned Tribunal.

10. The respondent is directed to make payment within a period of eight weeks from today. It is made clear that amount already paid would be deducted from claim determined hereinabove.

11 It is further ordered that enhanced amount shall be paid only to the appellant-widow of deceased and no part of it would be paid to children of the deceased as they are quite major and appellant is stated to be 75 years old lady and further she is sole appellant before this Court.

12. The appeal is disposed of in the above-stated terms.

(JAGMOHAN BANSAL)
JUDGE

09.09.2022
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Whether speaking/reasoned	Yes/No
Whether Reportable	*Yes/No*