IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1229-2015 (O&M)
Reserved on : 01.08.2022
Pronounced on : 16.08.2022

Manju and others ..... **Appellants**

versus

Surinder Kumar and others ...... **Respondents**

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: None for the appellants.

None for respondents No.1 to 3.

Mr. Suman Jain, Advocate with
Mr. Manmohan, Advocate
for respondent No.4-Insurance Company.

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PANKAJ JAIN, J.

Claimants are in appeal seeking modification of the award dated 20.11.2014 passed by Motor Accident Claims Tribunal, Rewari (hereinafter referred to as 'Tribunal').

2. The claim petition under Section 166 of the Motor Vehicles Act, 1988 was filed by the appellants seeking compensation on account of death of Shashi Yadav in a motor vehicular accident.

3. As per the claim petition, on 17.10.2013 while deceased Shashi Yadav was travelling by motorcycle, he was hit by a bus being driven in a rash and negligent manner by respondent No.1. The deceased sustained fatal injuries and lost his life on his way to hospital. FIR No.157 dated 18.10.2013 was registered for offences punishable under Sections 279/304-A IPC.

4. Tribunal awarded sum of Rs.22,90,401/- as compensation. The scope of present appeal is confined to the enhancement of the compensation only.

5. The income of the deceased for the relevant period stands duly proved. ITRs for assessment year 2008-09 and 2013-14 have been proved on record as Ex.PW-3/A to Ex.PW-3/F. However, the Tribunal has taken income of the deceased to be Rs.16,000/- and not as reflected in ITRs. Nothing has been assessed for future prospects and claims enhancement in the compensation awarded under the conventional heads.

6. Counsel for the respondent-insurance company submits that Tribunal has noticed the fact that the firm of the deceased was cancelled on 30.09.2013 and thus has rightly assessed income of the deceased to be Rs.16,000/- per month. However, he fairly accepts that the appellants are entitled to future prospects and amounts under conventional heads as per law laid down in **National Insurance Company Limited vs. Pranay Sethi and others (2017) 16 SCC 680**.

7. I have heard counsel for the insurance company and have gone through the evidence on record.

8. There is no denial to the fact that the ITR for the assessment year 2013-14 has been duly proved on record. Mere fact that the firm of the deceased was dissolved will not lead to the inference that the deceased was not earning. A bare perusal of the Income Tax Return for the assessment year 2013-14 will show that the income chargeable for the relevant assessment year is Rs.3,48,530/-. Assessee firm was the proprietorship firm of the deceased. Similarly, income tax return of the firm for the assessment year 2012-13 shows annual income to be Rs.2,53,910/-.

9. In the considered opinion of this Court, the income of the deceased as discernible from the ITRs is Rs.21,000/- per month for the assessment year 2012-13 and about Rs.29,000/- for the assessment year 2013-14. Thus, the

income of the deceased is assessed @ Rs.25,000/- per month. Tribunal has rightly applied deduction of $1/4^{th}$ to calculate dependency. Multiplier of 15 has been correctly applied, keeping in view the age of the deceased i.e. 37 years. 40% future prospects further need to be added as per Pranay Sethi's case (supra). Appellants No.1 to 4 are entitled for Rs.44,000/- each on account of loss of consortium, Rs.15,000/- for loss of estate and Rs.15,000/- towards funeral expenses. The amount of compensation shall be apportioned equally between appellants No.1 to 4. Amount payable to appellant No.3 shall be kept in FDR in a nationalized bank of the choice of appellant No.1 and shall be payable to him after he attains the age of majority. The amount of compensation payable to the appellants shall carry interest @ 9% per annum from the date of filing of the claim petition till actual realization. Needless to say any amount already paid shall be set of and adjusted.

10. Keeping in view the aforesaid discussion, the award passed by the Tribunal is modified accordingly. Appeal stands disposed off in the aforesaid terms.

11. Since the main appeal has been decided, the pending civil miscellaneous application, if any, also stands disposed off.

(PANKAJ JAIN)
JUDGE

16.08.2022
Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No