

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO 6553/2016

Date of decision: 29.11.2022

Baljinder Kaur and others

.....Appellants

Vs.

Nirmal Singh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Tejpal Singh Dhull, Advocate for the claimants
appellants.

Mr. Sanjeev Kodan, Advocate for respondent no.3-
Insurance Company

Nidhi Gupta,J.

This appeal has been filed by the claimants seeking enhancement of compensation of Rs. 16 lacs awarded to them vide Award dated 4.2.2016 passed by the Motor Accident Claims Tribunal, Ambala (for short 'the Tribunal') in MACP No.13/2015 filed under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') by the claimants – appellants on account of death of Jaswant Singh.

Claimants being the widow, two minor children and parents of the deceased Jaswant Singh, filed a petition under Section 166 of the Act seeking compensation on account of death of Jaswant Singh in a motor vehicular accident that took place on 6.12.2014. At time of death Deceased Jaswant Singh was stated to be doing a private job with Hind Enterprises, By-pass Road, Sirhind and getting salary of Rs.15,000/- per month.

Learned Tribunal, upon considering the evidence on record, concluded that Jaswant Singh died due to injuries received by him in a motor vehicular accident that took place on 6.12.2014 due to rash and negligent driving of the offending Swift Car bearing registration No. HR-01-AK-9802 (hereinafter referred to as 'the offending vehicle') being driven by respondent no.2- Raj Kumar. Learned Tribunal while accepting the income of the deceased to be Rs.8000/- per month awarded a compensation of Rs.16 lacs with interest @ 7.5% per annum from the date of institution of the petition till realization.

Learned counsel for the claimants/appellants submits that the income of the deceased was Rs.15,000/- per month and the Tribunal is in patent error in taking the income of the deceased as only Rs.8000/- per month. Counsel for the appellants has also assailed the impugned Award on the ground that no future prospects and filial consortium has been awarded which is in contravention of the judgments of Hon'ble Supreme Court in **Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram, 2018 (18) SCC 130; Sarla Verma vs. Delhi Transport Corporation (2009) AIR (SC) 3104; and National Insurance Company Limited v Pranay Sethi and others (2017) 16 SCC 680.**

Learned counsel for the respondent Insurance Company submits that the learned Tribunal is in error in even taking income of the deceased at Rs.8000/- per month as at the relevant time minimum wages were only Rs.7400/- per month. As regards future prospects and filial consortium, it is very fairly stated by Id. Counsel, that the same are admissible to the appellants-claimants as per the law laid down by the Hon'ble Supreme Court in various decisions.

Heard learned counsel for the parties and perused the paper book in great detail.

A perusal of the impugned award shows that learned Tribunal in paras 16 and 17 thereof has given cogent reasons for rejecting the appellants' claim that the salary of the deceased was Rs.15,000/- per month. The findings of the learned Tribunal in this regard are reproduced hereunder: -

“16. It is evident from the testimony of PW1 and PW3 that there is no cogent proof regarding earnings of the deceased. Though it was claimed in the petition that deceased was getting Rs.15,000/- per month as salary, which is also stated by PW1, but this version is contradicted by PW3, who says that deceased was being paid Rs.10,000/- per month as salary. Even this version of PW3 is not believable in the absence of any cogent and credit worthy evidence because PW3 is not maintaining any ledger to show income and expenses of his business. No appointment letter was issued. There is absolutely no document to reveal that deceased was being paid Rs.10,000/- per month as salary.

17. In the aforesaid circumstances, notional income of the deceased will have to be taken into consideration by this Tribunal. Considering the fact that deceased was a young man of 25-27 years of age, it can be assumed that he must be earning at least Rs.8000/- per month i.e. Rs.96,000/- per annum”.

Learned counsel for the appellants is unable to controvert the above said findings of the Tribunal. Further, Id. Counsel for the respondent Insurance Company has not been able to produce any notification in support of his submission that at the relevant time minimum wages were Rs.7400/- per month.

Accordingly, I find no error in the order of the Tribunal except to the extent that future prospects and filial consortium has not been awarded. Income of the deceased @ Rs.8000/- per month, as well as all other amounts awarded under various heads are upheld being a reasonable and correct assessment as per the facts of the case. As such, the computation of the compensation admissible to the claimants/appellants is re-worked as under, after adding future prospects and filial consortium. As regards interest the same would remain @ 7.5% per annum from the date of filing of the claim petition till realization: -

Income Rs.8000/- per month

Future prospects being 40% comes to Rs.3200/-

Deduction $1/4^{\text{th}} = \text{Rs.} 11200 / 4 = 2800/-$

Multiplier applicable = 17

Dependency 8400x12x17 = Rs. 17,13,600/-

Filial consortium = Rs. 2,20,000/-

Loss of Estate = Rs.16,500/-

Funeral expenses	Rs.16,500/-
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Grand Total	Rs.19,66,600/-
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Less compensation Awarded by Tribunal	Rs.16,00,000/-
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Difference Rs. 3,66,600/-

Accordingly, Appeal stands partly allowed in the above terms.

Claimants shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the claim petition till realisation. Ratio of apportionment as well as manner of disbursement of compensation among the claimants as determined by the learned Tribunal shall remain the same. Appeal is accordingly disposed of in the above said terms.

(Nidhi Gupta)
Judge

29.11.2022
Joshi

Whether speaking/reasoned

Yes

Whether reportable

Yes/No