IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO 431/2018

Date of decision: 12.12.2022

Karam Singh and another

……….Appellants

Vs.

Manish and another

……….Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Gaurav Gupta, Advocate for the appellants/claimants

Mr.Lalit Garg, Advocate for respondent Insurance Company

Nidhi Gupta, J.

This is an appeal filed by the claimants seeking enhancement of compensation of Rs.8,64,000/- awarded to the claimants vide Award dated 9.2.2017, passed by ld. Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal'), in MACT No.451/2016 filed by them under Section 166 of the Motor Vehicles Act, 1988 on account of death of Sukhchain Singh, who died in a motor vehicular accident that took place on 14.7.2016 due to rash and negligent driving of motorcycle bearing No. HR 04G 2777 (hereinafter referred to as 'the offending vehicle') by respondent no.1-Manish.

Service upon respondent no.1 - driver-cum-owner of the offending vehicle was dispensed with by this Court vide order dated 3.5.2019.

Learned Tribunal on appraisal of the pleadings and evidence placed before it concluded that the deceased Sukhchain Singh died in a motor vehicular accident that took place on 14.7.2016 due to rash and negligent driving of motorcycle bearing No. HR 04G 2777/ the offending vehicle by respondent no.1-Manish. The age of the deceased was determined to be 21 years on the basis of Post Mortem Report Ex.P3. It was case of the claimants before the learned Tribunal that the deceased was earning Rs.12,000/- per month as he was working as a Machine Operator. However, learned Tribunal took the income of the deceased to be Rs.8000/- per month as per minimum wages payable to skilled worker during that time; and as the deceased was 21 years of age, multiplier of 18 was applied; and being bachelor, 50% deduction was made towards personal expenses; and total compensation was worked out to be Rs.8,64,000/-. Respondents were held jointly and severally liable to pay the compensation.

It is submitted by the learned counsel for the appellants that the deceased was working as a Machine Operator. It is submitted that it is evident from the evidence led by PW3 who brought the record pertaining to the service of the deceased including Certificate of Salary Ex.P-19 and Attendance Register Ex.P-20 which proved the salary of the deceased to be Rs.12,000/- per month. It is submitted that accordingly, Tribunal is in error in taking the salary of the deceased to be Rs.8000/- per month. It is further submitted that future prospects ought to have been given @ 40%, and even nothing has been awarded under the conventional heads.

In response, learned counsel for the respondent/Insurance Company submits that perusal of the Attendance Register Ex.P-20 shows that there is no signature of the deceased on the said Register and therefore, it is not proved on record that the deceased was employed as Machine Operator at the relevant time. Learned counsel also refers to LCR to submit that no Salary

Register etc of the company where the deceased was allegedly employed available.

I have heard learned counsel for the parties.

In my view there is no error in the reasoning of the Tribunal that documents Ex.P-17 and P-20 placed on record by the claimants are not reliable to prove income of the deceased. PW3 Kamal Kumar who brought the record regarding the employment of the deceased has admitted in his cross-examination at page 93 of the LCR that he has "*not brought the employment as well as salary register of the deceased. I have not brought any proof of employment except the attendance register Ex. P20*". Admittedly, the Attendance Register Ex.P-20 does not bear the signatures of the deceased. Further, neither the Income Tax Returns of the deceased, nor even the salary disbursal record of the company where he was allegedly working have been produced. Accordingly, I find that the Tribunal was not in error in taking the salary of the deceased @ Rs.8000/- per month. Needless to say that future prospects @ 40% ought to have been granted in conformity with the law laid down by **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**, and 50% deduction as deceased was a bachelor is correct and therefore maintained. Application of multiplier of 18 by the Tribunal is also correct. Consortium @ Rs.44,000/- each is granted and funeral expenses and loss of estate @ 16,500/- each is also granted.

Accordingly, compensation admissible to the claimants/appellants is reworked as under:-

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Salary	Rs.8000 per month
Future prospects @ 40%	Rs.3200 per month
Salary after adding future prospects	Rs. 11,2000 per month
Less 50% deduction	Rs.11200/2 = Rs.5600
Multiplier applied	18
Total dependency Rs.5600x12x18	Rs.12,09,600
Consortium 44,000x2	Rs.88,000
Funeral expenses	Rs.16,500
Loss of Estate	Rs.16,500
Total compensation	Rs.13,30,600
Already awarded	Rs.8,64,000
Enhanced compensation	Rs.4,66,600

Appellants are held entitled to interest @ 6% on enhanced compensation from date of filing claim petition till date of realisation. Ratio of apportionment and manner of disbursement of enhanced compensation as determined by the ld. Tribunal shall remain the same.

Appeal stands partly allowed in above terms. Pending applications if any stand disposed of.

(Nidhi Gupta)
Judge

12.12.2022
Joshi

Whether speaking/reasoned **Yes**

Whether reportable **Yes/No**

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