

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-6017-2012 (O&M)
Date of decision : 30.05.2022

Anuradha and others

..... Appellants

versus

Jagmal Singh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Ravi Kumar Girdhwal, Advocate for
Mr. Sanjay Mittal, Advocate
for the appellants.

Mr. Ashwani Talwar, Advocate and
Mr. Varun Sharma, Advocate
for respondent No.2-Insurance Company.

PANKAJ JAIN, J.

Claimants are in appeal. Challenge in this appeal is to award dated 01.10.2012 passed by learned Motor Accidents Claim Tribunal, Narnaul (hereinafter referred to as 'Tribunal') in MACT Case No.60 of 2009. Appellants are seeking enhancement of compensation.

2. The present lis has arisen out of an unfortunate accident involving Tata 407 bearing registration No. HR-66-6746 resulting into untimely death of deceased Raj Kumar aged about 28 years (at the time of accident).

3. As per the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as '1988 Act') on 27.04.2019, Raj Kumar-the deceased and one Prithvi Singh were going from Nangal Chaudhary to Kalba. When they reached near Ware House, Nangal Chaudhary at about 9.00 p.m., one Tata 407 coming from opposite side struck against the motor cycle being driven by the deceased. The deceased was shifted to General

Hospital Narnaul. He was referred to SMS Hospital, Jaipur. He remained under treatment till 05.05.2009 and later succumbed to his injuries sustained in the accident.

4. On the pleadings of the parties, the learned Tribunal framed the following issues:-

- “1. Whether Raj Kumar son of Om Parkash died in a road accident which took place on 27.04.2009 in the area of Nangal Chaudhary (Police Station, Nangal Chaudhary) due to the rash and negligent driving on the part of respondent no.1, the driver of Tata 407 bearing Regn. No. HR-66-6746? OPP
2. Whether respondent no.1 did not hold a valid driving licence, if so to what effect? OPR-2
3. Whether the petitioners are entitled to award of compensation and if so, how much and from whom? OPP
4. Relief.”

5. Claimants are seeking modification of the order passed by the Tribunal with respect to quantum of compensation. It is finding on issue No.3 which is under challenge.

6. Counsel for the appellants would submit that deceased was 28 years of age at time of death and was working as LIC agent, electrician and mechanic of inverter and was earning Rs.15,000/- per month, whereas Tribunal has taken his income to be Rs.4,200/- per month. He further submits that income of the deceased needs to be enhanced. He relies upon certificate mark 'A' showing that the deceased had earned commission of Rs.6747.75/- during the month of December 2007. He further claims that nothing has been paid on account of future prospects. He further submits that it has come on record that

Anuradha-appellant No.1, wife of the deceased was in the family way at the time of death of deceased Raj Kumar. A male child was born and thus cut of $1/4^{\text{th}}$ while calculating loss of dependency also needs to be reduced to $1/5^{\text{th}}$. He also claims enhanced compensation under conventional heads as per guidelines laid down in **National Insurance Company Limited vs. Pranay Sethi and others 2017 (16) SCC 680**.

7. Counsel for respondent No.2-insurance company would submit that there is no evidence on record to show that the deceased was working as LIC agent or as electrician and mechanic as alleged. In the absence of any evidence on record, Tribunal has rightly assessed the income of the deceased to be Rs.4,200/- per month. However, counsel for respondent No.2 is not in a position to deny that the claimants shall be entitled for enhancement of compensation on account of future prospects as well as enhanced compensation under the conventional heads as per Pranay Sethi's case (supra).

8. Having heard counsel for the parties and after perusing the record of the case, this Court is of the considered opinion that the deceased being 28 years of age at the time of death, the claimants are entitled for 40% future prospects on income assessed by Tribunal @ 4,200/- per month. Under conventional heads, they are further entitled to Rs.40,000/- each on account of loss of consortium, Rs.15,000/- on account of funeral expenses and Rs.15,000/- for loss of estate. Multiplier of 17 has been rightly applied as per **Sarla Verma and others vs. Delhi Transport Corporation and another 2009 (6) SCC 121**. As awarded by the Tribunal, the claimants shall be entitled for an amount of Rs.33,000/- as reimbursement for the expenses incurred on the treatment of the deceased. Further sum of Rs.15,000/- for transportation is also awarded. The deceased was admitted from 27.04.2009 till 05.05.2009, thus, an amount of

Rs.15,000/- for attendant charges and Rs.15,000/- for special diet is further awarded to the claimants.

9. As a sequel of the discussion above, the appeal is allowed. The award of the Tribunal is modified. Compensation payable to the claimants shall be worked out as per the amounts modified herein above. As held by the Tribunal, appellants shall further be entitled for interest @ 7.5% per annum from the date of filing the petition till the date of actual realization of the amount of compensation. Needless to say any amount already paid shall be set off and adjusted.

(PANKAJ JAIN)
JUDGE

30.05.2022

Dinesh

Whether speaking/reasoned Yes

Whether Reportable : No