

227 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-6614-2018

Date of decision: 14.12.2022

ANGREJO DEVI AND ANR

....Appellants

Versus

NARENDER AND ORS

...Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present Mr. Pawan Attri, Advocate
for the appellants.

Mr. Harjinder Singh, Advocate
for the respondent No.3.

NIDHI GUPTA. J.(Oral)

This appeal has been filed by the claimants-parents of the deceased-Darshan Singh (23-year-old) seeking enhancement of compensation of Rs.12,24,600/- vide Award dated 04.05.2018, passed by the Motor Accidents Claims Tribunal, Jind (hereinafter referred to as the "Tribunal") in MACT Case No.141 of 2016 filed under Sections 166 and 140 of the Motor Vehicles Act, 1988.

Upon appraisal of all the evidence and pleadings before it, the learned Tribunal concluded that the deceased had died in a motor vehicle accident which took place on 01.10.2016, due to the rash and negligent driving of car bearing registration No.HR-56B-8709 (hereinafter referred to as the "offending vehicle") by respondent No.1 - driver of the offending vehicle. The learned Tribunal took the income of the deceased to be Rs.8,000/- per month; and made a deduction thereupon of 50% as the deceased was admittedly a bachelor; awarded 40% by way of future prospects; applied the multiplier of 18; and granted Rs.15,000/- towards funeral expenses; and therefore, awarded the above said total compensation of Rs.12,24,600/- along with 7.5% interest from the date of filing petition till date of realization. The respondents who are driver and owner of the offending vehicle and respondent No.3-Insurance Company were held jointly and severally liable.

It is submitted by learned counsel for the appellants-parents of the deceased that the income of the deceased has been taken on the lower side by the learned Tribunal

as the deceased was working as a driver with the Dashmesh Transport Company. Learned counsel submits that the driving licence of the deceased has been placed on record as Mark-B and in support, salary certificate of the deceased has been placed on record as Mark-A to show that he was earning Rs.15,000/- per month. It is further submitted that no consortium and even no loss of estate has been granted by the learned Tribunal which is in violation of the law laid down by 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 Vs. Pranay Sethi and others (2017) 16 SCC 680.***

Learned counsel for the Insurance Company very fairly submits that consortium and loss of estate is admissible to the appellants. However, no evidence has been led by the appellants to prove that the deceased was earning Rs.15,000/- per month.

I have heard learned counsel for the parties.

Regarding the income of the deceased, reference may be made to the findings recorded by the learned Tribunal in Para 18 of the impugned Award which is reproduced as under:-

“18 As per version of the petitioner, Darshan Singh (since deceased) was working as driver with Dashmesh Transport Company, New Karnal Road, Kaithal and earning Rs.15,000/-per month. Petitioner placed on the record copy of salary certificate of Darshan Singh i.e. Mark A, issued by Dashmesh Transport Company but this document does not inspire confidence to believe as neither owner/proprietor nor accountant of the firm was examined to prove the fact of his employment. No account books of the firm, ESI or EPF account of Darshan Singh placed on the record to establish that Darshan Singh was employee in Dashmesh Transport Company and he was receiving salary of Rs.15,000/- per month. So, in the absence of any cogent and reliable evidence, this certificate cannot be taken into consideration while assessing the compensation in the case in hand. For the determination of compensation and keeping in view the fact that Darshan Singh would have looked after his parents in their old age and loss of child to the parents is a great loss and no amount of money can compensate that, income of the deceased is considered as Rs.8.000/- per month that of a unskilled labour. As per observation in case law National Insurance Company Limited vs. Pranay Sethi and Ors. SPECIAL LEAVE PETITION (CIVIL) No. 25590 of 2014 (SC), petitioners are also entitled for the compensation on account of future

prospects i.e. @ 40% of existing income.” (Emphasis supplied)

Learned counsel for the appellants is unable to controvert the above said findings of the Id. Tribunal, and has even now placed nothing on record in support of his contention that the deceased was earning Rs. 15,000/- per month.

Accordingly, in view of the facts as noted herein above, the compensation admissible to the appellants, in present appeal, is re-worked as under:-

Heads	Amounting (in Rs.)
INCOME	8000
FUTURE PROSPECTS @ 40%	3200
DEPENDENCY	8000+3200 =11200/2= 5600
MULTIPLIER 18 (Age being 23 years)	5600x12x18= Rs.12,09,600/-
COMPENSATION:	12,09,600/-
LOSS OF CONSORTIUM	88000
LOSS OF LOVE AND AFFECTION	---
LAST RITES	16500
LOSS OF ESTATE	16500
<u>GRAND TOTAL</u>	13,30,600/-
INTEREST	7.5%

Ratio of apportionment and manner of disbursement of compensation, among the claimants as determined by the learned Tribunal shall remain the same. Rate of interest of 7.5% per annum is maintained. Appeal is accordingly disposed of as above.

(NIDHI GUPTA)
JUDGE

December 14, 2022
Monika

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No