

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(107)

FAO No. 2720 of 2021

Date of Decision : 22.05.2023

Sarita and others

...Appellants

Versus

Trilok Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. J.P. Sharma, Advocate for the appellants.

Mr. Preet Harinder Singh Pannu, Advocate
for the respondent-Insurance Company.

Harsimran Singh Sethi J. (Oral)

1. Mr. Preet Harinder Singh Pannu, Advocate appears on behalf of the respondent-Insurance Company.
2. Keeping in view the joint request of the parties, the appeal is taken up for hearing.
3. The present appeal has been filed by the appellants challenging the Award dated 30.04.2021 on the ground that the compensation awarded by the Tribunal is on the lesser side.
4. The only question raised in the present appeal is that the Motor Accident Claims Tribunal, Narnaul has assessed the income of the deceased as ₹20,000/- per month whereas it has already come on record that the deceased was earning ₹22,000/- per month, which fact has been ignored by the Tribunal while assessing the income and consequently the

amount of compensation.

5. Learned counsel for the appellants argues that though in para 27 of the impugned Award, even the Officer from the company, where the deceased was working, gave the statement during his testimony that the salary of the deceased was ₹22,000/- per month and the said fact has also been proved by the attendance register as well as copy of the salary register and the salary certificate. Learned counsel for the appellants further argues that the Tribunal has further recorded that the evidence qua the grant of salary has gone un-rebutted but while assessing the income, the same has been assessed as ₹20,000/- per month instead of ₹22,000/- per month, hence, the inadvertent mistake of the Tribunal needs to be rectified by this Court.

6. Learned counsel for the respondent-Insurance Company has not been able to rebut the said contention of the learned counsel for the appellants that as per the salary certificate and salary register, which have already come on record, salary of deceased was ₹22,000/- per month and not ₹20,000/- per month, which has been taken by the Tribunal, while assessing the amount of compensation.

7. I have heard learned counsel for the parties and have gone through the record with their able assistance.

8. It is clear from the Award that the salary of the deceased was proved as ₹22,000/- per month keeping in view the testimony of the employee of the company, where the deceased was employed as well as the documentary evidence such as salary slip etc. There is no reason not

to accept the said piece of evidence so as to record the finding qua the salary of the deceased. Even from the tenor of the Award, the Tribunal has not given any reason not to accept the salary as ₹22,000/- per month despite admissible the evidence. Probably, assessing of salary at ₹22,000/- per month is inadvertent, which needs to be corrected keeping in view the evidence, which has come on record and has gone un-rebutted on the said aspect.

9. Accordingly, the salary of the deceased employee is assessed at ₹22,000/- per month instead of ₹20,000/- per month and the compensation is computed accordingly.

10. Keeping in view the conceded position, which has been mentioned here-in-before, the compensation awarded by the Tribunal in favour of the claimants is modified to the extent that the amount of compensation be calculated by taking the income of the deceased as ₹22,000/- per month, hence, the total compensation for which the claimants are held entitled for is ₹49,89,600/- instead of ₹46,06,000/- and the details of the same are as under :-

Income	₹22,000/- per month
Add : increase	40%
Deduction	1/4th
Total	₹23,100 p.m. x 12 x 18 = ₹49,89,600/-
Already awarded by Ld. MACT	₹46,06,000/-
Enhanced amount	₹49,89,600 – ₹46,06,000 = ₹3,83,600/-

11. Keeping in view the above, the appellants are held entitled for the total compensation to the tune of ₹49,89,600/-. The compensation already paid as per the Award dated 30.04.2021 of the Tribunal be deducted from the total compensation for which the appellants have been held entitled for in this order and the remaining amount i.e. ₹3,83,600/- be released to the claimants/present appellants in equal share within a period of three months from the date of receipt of certified copy of this judgment.

May 22, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No