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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

F.A.O. No.1143 of 2016(O&M)
(M.A.C.T. Case No.42 of 2014)
DATE OF ORDER: 10.02.2023

Rajender and another

.....Appellants/claimants

Vs.

Dharamvir and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: Mr.Meenakshi Bali, Advocate for
Mr.G.C. Shahpuri, Advocate for claimants.

Mr.Abhinav Singla, Advocate for respondents.

Nidhi Gupta, J.

CM-3494-CII-2016

Prayer in the application for condonation of delay of 176
days in filing the present appeal is filed. The same is allowed subject to just
exceptions, and the delay is condoned.

F.A.O. No.1143 of 2016:-

Present appeal has been filed by the
appellants/claimants seeking enhancement of compensation of
Rs.3,05,000/- awarded to them by Motor Accidents Claims Tribunal, Rohtak
(hereinafter refer to as 'the learned Tribunal') vide award dated 24.03.2015

passed in a MACT Case No.42 of 2014 filed under Section 166 of Motor Accidents Claims Tribunal, 1988.

Brief facts of the case are that the learned Tribunal, on the basis of the pleadings and evidence produced before it, concluded that the deceased Naresh had died due to injuries suffered by him in a motor vehicular accident that took place on 18.12.2013 due to the rash and negligent driving of tractor-trolley bearing registration No.HR-04B-6466 (hereinafter refer to as 'the offending vehicle') being driven by respondent No.1 herein, and owned by respondent No.2 and insured by respondent No.3 herein. Claimants are the father and sister of the deceased. Vide the impugned award, the respondents were held jointly and severally liable to pay the compensation amount of Rs.3,05,000/-.

Learned Tribunal calculated the compensation in the following manner. The notional income of the deceased was taken as Rs.6,000/- per month on the basis of the Notification of Minimum Wages issued by the State Government in respect of an unskilled worker. Age of the deceased was taken as 16-17 years on the basis of his post-mortem report. A deduction of 50% was made in view of the fact that the deceased was a bachelor. Learned Tribunal applied the multiplier of 5 on the basis of the age of the father of the deceased. Accordingly, the dependency was calculated as $\text{Rs.3000/-} \times 12 \times 5 = \text{Rs.1,80,000/-}$. To this amount, learned Tribunal added an amount of Rs.25,000/- as funeral expenses, and Rs.1,00,000/- on account of loss of love and affection. In this way, the total compensation was worked out to Rs.3,05,000/-.

Learned counsel for the appellant seeks enhancement of compensation, *inter alia*, on the ground that the learned Tribunal was in error in applying multiplier of 5 on the basis of the age of the father of the deceased, whereas keeping in view the fact that the age of the deceased was 6-17 years at the time of death, multiplier of 18 ought to have been applied.

It is submitted that even future prospects @40 % ought to have been given in accordance with the law laid down by the 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**. It is also submitted that the claimants are also entitled to loss of estate @ 15,000/-.

In response, it is submitted by learned counsel for the respondent-insurance company that the income of the deceased has been taken on the higher side as the deceased was actually, a labourer and was not working as a mechanic-cum-helper in an electric shop as alleged by the claimants. It is further submitted that the claimants are not entitled to interest for the period of delay of 176 days that has occurred in filing of the present appeal.

No other argument is raised on behalf of the parties.

I have heard the learned counsel for the parties.

I find merits in the arguments advanced on behalf of the appellants. In my view, learned Tribunal was in error in applying the

multiplier of 5 on the basis of the age of the father of the deceased. In conformity with judgment of Hon’ble Supreme Court in case of **Sarla Verma (supra)**, multiplier of 18 has to be applied as the deceased was between 15 to 20 years of age. Further, the claimants are also entitled to future prospects @40%as per judgment in case of **Pranay Sethi (supra)**. An amount of Rs.15,000/- is granted towards loss of estate, funeral expenses is reduced to Rs.15,000/- and even consortium is granted @40,000/- each to both the claimants. Interest will be maintained as granted @7.5% per annum. It is further held that the claimants shall not be entitled for interest for the period of 176 days, which has occurred in filing the appeal.

Accordingly, the enhanced compensation admissible to the claimants-appellants is reworked as follows:

Sr.No.		
1.	Monthly Income	Rs.6,000/-
2.	Deduction after Dependency (1/2 x 6000)	Rs.3000/-
3.	Future Prospects 40% (Rs.3000+40%)]	Rs.4200/-
4.	Annual Income (Rs.4200 x 12)	Rs.50,400/-
5.	Multiplier (18 x Rs.50,400)	Rs.9,07,200/-
6.	Loss of Estate (Rs.9,07,200 + Rs.15,000/-)	Rs.9,22,200/-
7.	Funeral Expenses (Rs.9,22,200+ Rs.15,000/-)	Rs.9,37,200/-
8.	Filial sister (Rs.9,37,200/- + Rs.40,000/-)	Rs.9,77,200/-
9.	Filial to father (Rs.9,77,200/- + Rs.40,000/-)	Rs.10,17,200/-
10.	Total Claimed	Rs.10,17,200/-
11.	Awarded	Rs.3,05,000/-

12.	Enhancement Awarded)	(Total Claimed-	Rs.7,12,200/- along with 7.5% interest.
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Ratio of apportionment and manner of disbursement of compensation, as determined by the Tribunal is maintained. Claimants are also held entitled to interest @7.5% on the enhanced compensation from date of filing of the claim petition till realisation, excluding the period of 176 days of delay that has occurred in filing the appeal.

Disposed of as above.

Pending applications, if any, also stand disposed of.

09.02.2023
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(Nidhi Gupta)
Judge

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No