In the High Court of Punjab and Haryana, at Chandigarh

F.A.O. No. 3724 of 2015

Date of Decision: 07.07.2023

Smt. Sushila and Others

... Appellant(s)

Versus

Devender and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Sushil Jain, Advocate
for the appellant(s).

Mr. Rajbir Singh, Advocate
for the respondent No.3-Insurance Company.

Anil Kshetarpal, J.

1. The present appeal has been filed for enhancement of the compensation awarded by the Motor Accident Claims Tribunal, Sonepat (hereinafter referred to as "the Tribunal").

2. The appellants are the claimants. The correctness of the findings arrived at by the Tribunal with regard to the involvement of the vehicle, the accident having occurred due to the rash and negligent driving of respondent No.1-Devender, the driver of the offending truck and the liability of the respondent No.3-insurance company is not being questioned. Hence, the only subsisting question is with respect to the appropriate amount of compensation payable to the claimants.

3. Rajender, aged 44 years, died in an automobile accident on 23.02.2013. He was the owner of the land measuring 2½ acres. He is also stated to be earning some amount by selling milk. The claimants stated that

the deceased was earning ₹15,000/- per month. The Tribunal assessed the income of the deceased @ ₹6,000/- per month.

4. The learned counsel representing the appellants contends that the Tribunal has assessed the income which is lower than the income equivalent to an unskilled worker, whereas, the deceased was the owner of the land measuring 2½ acres, which is located in District Jind (Haryana). In this area, ordinarily, the farmers get two good crops during the year. Hence, the income assessed by the Tribunal is ridiculously low. The deceased cannot be equated with an unskilled worker for the purpose of minimum wages. Smt. Sushila, widow of the deceased, has appeared in the evidence and stated that the deceased was earning ₹15,000/- per month from his milk dairy and agricultural land. The details of the ownership of the deceased has been disclosed. Even the copy of jamabandi was produced. A copy of the J-Form evidencing the sale of crop and the copy of the accounts of selling milk were also produced.

5. Keeping in view the aforesaid facts, the income claimed by the widow of the deceased is not excessive. Moreover, the Tribunal has failed to grant 25% enhancement in the income on account of future income as laid down by the five Judges Bench in ***National Insurance Company Limited v. Pranay Sethi & Others (2017) 16 SCC 680***.

6. Under the conventional heads, namely funeral expenses, loss of estate and consortium, the Tribunal has not granted appropriate amount. The deceased has left behind as many as six claimants including widow, aged parents and three minor school going children.

7. As far as the loss of consortium, a three Judges Bench of the Supreme Court in ***United India Insurance Company Limited v. Satinder Kaur alias Satwinder Kaur and others (2020) SCConline SC 410***, after considering the correctness of the judgment passed in ***Magma General Insurance Company Limited v. Nanu Ram alias Chuhru Ram and Others 2018(4) RCR (Civil) 333***, held that each of the dependent is entitled to individual loss of consortium @ ₹40,000/- which now stands enhanced to ₹44,000/-.

7. Keeping in view the aforesaid facts, the deduction towards self-expenses to the extent of 1/4th has correctly been applied by the Tribunal. The correctness of the application of multiplier of 14 is not disputed.

8. Keeping in view the aforesaid facts, the appeal filed by the claimants is allowed. The enhanced amount of compensation is worked out as under:-

Sr. No.	**Heads under which the amount awarded**	**Amount awarded by the Tribunal (In ₹)**	**Amount awarded by the High Court (In ₹)**
A)	Monthly Income	6,000.00	15,000.00
B)	Future Prospects	NIL	3,750.00 (25% of the income assessed)
C)	Income Assessed after adding future prospects	NIL	18,750.00
D)	Deduction on account of his own expenses.	4,500.00 (6,000 – 1,500 i.e. 1/4th of the monthly income)	14,062.50 (18,750-4,687.50 i.e. 1/4th of the monthly income)
E)	Total dependency Assessed per month	4,500.00	14,062.50
F)	Annual dependency	54,000.00 (4,500 x 12)	1,68,750.00 (14,062.50 X 12)
G)	Amount assessed after applying Multiplier	7,56,000.00 (54,000 x 14)	23,62,500.00 (1,68,750 x 14)

Sr. No.	Heads under which the amount awarded	Amount awarded by the Tribunal (In ₹)	Amount awarded by the High Court (In ₹)
H)	Funeral Expenses	25,000.00	16,500.00
I)	Loss of Estate	20,000.00	16,500.00
J)	Loss of Consortium to be awarded @ ₹40,000/- to all the four claimants.	1,00,000.00	2,64,000.00 (44,000x6)
K)	Total compensation awarded	9,01,000.00	26,59,500.00
L)	**Amount of compensation enhanced by this Court**	**17,58,500/- (26,59,500 – 9,01,000)**	

9. The claimants shall also be entitled to interest @ 7.5% per annum from the date of filing of the claim petition till the realization on the enhanced amount of compensation.

(Anil Kshetarpal)
Judge

July 07, 2023
"DK"

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