[224] IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-6633-2016 (O&M)
Date of Decision :21.02.2023

MOSHMINA …Appellant

Versus

ANISH AND ORS ….Respondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Digvijay, Advocate for
Mr. Ashish Gupta, Advocate for the appellant.

Mr. Vishal Khatkar, Advocate for
Mr. Sumit Gupta, Advocate for respondent No.1.

Mr. Subhash Goyal, Advocate for
respondent No.3/Insurance Company.

Mr. Vikas Kumar Rana, Advocate for
Mr. Sandeep Kumar Rana, Advocate for the appellant in FAO-2486-2017 and for respondent No. 4 in FAO-6633-2016.

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B.S. Walia, J. (Oral)

[1] This order shall decide FAO No. 6633 of 2016 and FAONo. 2486 of 2017 as the same arise out of the same award. Facts of the case are being taken from FAONo.6633 of 2016.

[2] Prayer in the instant appeal is for enhancement of compensation of Rs.7,85,000/- awarded to the widow/father of the deceased Sahzad by the learned Motor Accident Claims Tribunal, Palwal (hereinafter referred to as "the Tribunal") vide award dated 12.09.2016.

[3] Learned counsel contends that the appellant's father-in-lawi.e.respondent No. 4 herein had filed MACT Petition No.67 of 2015 before the learned Motor Accident Claims Tribunal, Palwal in which the

appellant was respondent No.4 and that on the basis of pleadings, evidence and submissions made, the learned Tribunal was pleased to award a sum of Rs. 7,85,000/-to the appellant-widow and father (respondent No.4) of deceased Sahzad by taking into account, income of the deceased as Rs.5000/- per month as per notification pertaining to minimum wages in the State of Haryana during the year 2014, whereas as per relevant Notification dated 01.07.2014, minimum wages for unskilled workers in the State of Haryana was Rs. 5639.50/- per month,secondly, no future prospects were awarded though 40 % of the establishedincome of the deceased was liable to be added towards future prospects as per paragraph No.61(iv) of the decision of Hon'ble the Supreme Court in ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017 (16) SCC 680***, besides the appellant/respondent No.4 was entitled to award of Rs.16,500/- on account of loss of estateas against Rs.5,000/- awarded by the Tribunal, likewise the appellant/respondent No.4 were entitled to award of Rs.16,500/- on account of funeral expenses as against Rs. 10,000/- awarded by the Tribunal besides, respondent No.4 was entitled to award of Rs.44,000/- on account of loss of filial consortiumin terms of the decision in ***Magma General Insurance Co. Ltd. vs. Nanu Ram alias Chuhru Ram, 2018 (4) RCR (Civil) 333.***

[4] Learned counsel for the respondent-Insurance Company concedes that the minimum wages for the relevant period as per notification dated 01.07.2014 in the State of Haryana for unskilled workers was Rs. 5639.50/- per month and that as per paragraph No. 61(iv) of the decision in Pranay Sethi's case (supra), 40 % of the established income of the deceased was liable to be taken into account for working out the future prospects besides the compensation payable on

account of funeral expenses and loss of estate was to be paid @ Rs. 16,500/- on each count to be shared proportionally amongst the appellant and respondent No. 4. He however contends that as against entitlement of Rs.44,000/- on account of loss of spousal consortium, the appellant/widow had been awarded Rs. 50,000/- which was liable to be scaled down to Rs. 44,000/-.

[5] I have considered the submissions of learned counsel.

[6] Admittedly, the deceased was 20 years of age. Income of the deceased as per notification under the minimum wages for unskilled workers in the State of Haryana taken into accountwas Rs. 5000/- per month whereas in view of accident being of October 2014, notification qua minimum wages for unskilled workers in the State of Haryana as on 01.07.2014 was Rs. 5639.50.

[7] Accordingly, in the light of the position noted above, details of compensation awarded by the Tribunal as also compensation assessed by this Court is as under :-

Sr. No.	**Head**	**Amount assessed by Tribunal in Rupees**	**Amount assessed by this Court in Rupees**
1.	Income of the deceased as assessed	Rs.5000/- per month	Rs.5639.50/-per month
2.	Future prospects	Nil	40% of Rs.5639.50/- = 2255.8 (Total 5639.50 + 2255.8 = Rs.7895.30/-)
3.	Deduction towards personal expenses of the deceased	1/3rdof Rs.5000 =5000-1666.7= 3333.34	1/3rd of Rs.7895.30 = 7895.30-2631.7= Rs.5263.60/-
4.	Multiplier applied	18	18
5.	Compensation awarded	Rs.3333.34x12x18 = Rs.7,20,001.44/- (rounded off to Rs.	Rs.5263.60 x 12 x 18 = 11,36,937.60/- (rounded off to

		7,20,000/-)	Rs.11,37,000/-)
6.	Funeral Expenses	Rs.10,000/-	Rs.16500/-
7.	Loss of estate	Rs.5,000/-	Rs.16,500/-
8.	Loss of spousal /filial consortium	Rs. 50,000/- to the widow	Rs.44000/- to each of the appellant/respondent No.4 i.e. (Rs.88,000/-)
9.	Interest	7.5% per annum	7.5% per annum
Total		**Rs.7,85,000/-**	**Rs.12,58,000/-**

[8] Accordingly, in the light of the position noted above, the appeal is allowed. Award passed by the learned Tribunal is modified and compensation payable to the appellant and respondent No. 4 is enhanced from Rs. 7,85,000/- to Rs. 12,58,000/- along with interest @ 7.5% per annum (less amount if any already paid). Compensation be paid to the appellant/respondent No.4 as per ratio determined by the learned Tribunal i.e. in 75/25% respectively.

(B.S. Walia)
Judge

21.02.2023
'Rajeev (rvs)'

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