IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO-4051-2018 (O&M)
Decided on : 05.10.2023

Manjeet Kaur and others

. . . Appellant(s)

Versus

Balkar Singh and others

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Naveen Gupta, Advocate
for the appellant(s).

Mr. Sanjiv Pabbi, Advocate
for respondent No.3 – Insurance Co.

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SANJAY VASHISTH, J. (Oral)

CM-14253-CII-2018

i. This is an application filed under Order 41 Rule 27 read with Section 151 CPC, for producing and proving the certified copy of profit and loss account of M/s Om Shiv Gorakh Furniture House, Ambala, for the year ending 31.03.2016 (Annexure A-3), as additional evidence.

ii. No plausible reasoning is given to allow the additional evidence at this stage, hence, dismissed.

FAO-4051-2018

1. The present appeal has been filed by the appellants/petitioners/claimants (hereinafter referred as claimants) in MACT Case No.437 of 2016, for modification of award dated 24.01.2018, passed by Ld. Motor Accidents Claims Tribunal, Ambala (hereinafter referred to as 'Ld. Tribunal') by way of seeking enhancement of amount of compensation, on account of death of Gurmeet Singh' in a motor vehicular accident.

2. Claimants in the MACT case were Smt. Manjeet Kaur (widow

of deceased), Aman Kumar (minor son of deceased), Muskan (minor daughter of deceased) and Giano Devi (mother of deceased). In the present appeal before this Court, all the claimants are party in the same order.

3. Briefly stated facts of the case are that on 04.11.2016, deceased was going from Village Rupumajra to Jansui Head for his personal work on his motorcycle bearing Registration No. HR-01-AC-9749. However, at about 4:30 PM, when he reached near village Naggal, a Haryana Roadways Bus bearing registration No. HR-37D-0639 which was being driven in a rash and negligent manner by Respondent No. 1, came from the opposite side and struck the motorcycle of the deceased from the opposite direction. The deceased fell down from his motorcycle and suffered grievous injuries and was taken to the Civil Hospital, Ambala city in the offending bus, where he was declared brought dead.

For the said accident, FIR No. 101 dated 04.11.2016 under Sections 279/ 304-A IPC, P.S Naggal, was registered, against respondent no.1.

4. Claimant filed a claim petition under Section 166 of the Motor Vehicle Act, 1988 for seeking compensation to the tune of Rs.1 Crore. However, after going through the record, appreciating the evidence, examining the witnesses, and hearing the arguments of both the sides, Ld. Tribunal assessed the age of the deceased as between 39 and 40 years; his monthly income as Rs.22,500/-; applied the multiplier of 15; deducted $1/4^{th}$(one-fourth) of his income on account of his personal expenses; provided Rs. 15,000/- on account of funeral expenses; provided Rs. 40,000/- on account of loss of consortium and Rs. 15,000 on account of loss of Estate. Accordingly, Learned Tribunal awarded an amount of compensation to the claimants to the tune of Rs. 43,22,500/- i.e Rs.43,23,000/-(round

figure) payable by respondents severally and jointly with interest @9% per annum from the date of filing of the petition till its actual realization.

5. Appellants/petitioners/claimants have filed the present petition seeking enhancement of the compensation as awarded by the Ld. Tribunal.

6. While addressing arguments, Counsel representing the appellants asserts that there was a substantial error on the part of the Learned Tribunal in its assessment of the deceased's income. The deceased was the owner of M/S Om Shiv Gorakh Furniture House, Ambala. The Balance sheet of the year 2015-2016 reveals that the net profit of the deceased's firm was Rs. 2,97,607/-, which is further corroborated by the Income Tax return of the year 2016-2017 (Ex. P-2) which shows the total gross income of the deceased for the financial year as Rs. 2,97,607/-. Further submits that Ld. Tribunal should not have considered the net taxable income as the amount of Rs. 28,180/- is the deduction provided to the deceased under Section 80 C of the Income Tax Act as a benefit for his savings and paying of insurance premiums and thus, gross income of the deceased needs to be considered for the purpose of assessing the income of the deceased.

Counsel for the appellants further submits that Learned Tribunal has provided Funeral expenses to the lower side; has granted only lump sum consortium that too on the lower side and has failed to grant consortium to the other claimants; and has also granted compensation on account of loss of estate on the lower side which is against the settled proposition of law as rendered by Hon'ble the Supreme Court. Consequently, prays for an augmentation of the compensation amount originally granted by the Learned Tribunal.

7. Alternatively, Counsel for Respondent No. 3, representing the Insurance Company, asserts that the Learned Tribunal has accurately

assessed the deceased's salary and appropriately computed the compensation amount for the claimants. Consequently, there is no justification for intervening in the well-reasoned and precise award issued by the Learned Tribunal.

8. The primary and pivotal issue before this Court, essential for the determination of the compensation due to the claimants, revolves around the assessment of the deceased's monthly salary.

9. This Court has carefully perused the income tax return of the deceased for the year 2016-2017 (Ex. P-2) and is of the view that the gross income of the deceased should be considered as the benefit of deductions has been granted to the deceased under Section 80 C of the Income Tax Act solely for the purpose of calculation of the income tax. Thus, this Court assesses the income of the deceased as Rs. 3,00,000/- per annum which comes out to be Rs. 25,000/- per month.

10. This Court has already rendered a detailed judgment titled as ***Sangtari Muleem* v. *KarnailSingh*, (FAONo.2538of2006D/d.07.07.2023) : Law Finder Doc Id # 2270482,** in consonance with the settled proposition of law laid down by the Apex Court in ***National Insurance Company Limited* v. *Pranay Sethi and Ors.*, 2017(4) RCR (Civil) 1009 : Law Finder Doc Id #918174**, and ***Smt. Sarla Verma and others* v. *Delhi Transport Corporation and another*, 2009(3) RCR (Civil) 77 : Law Finder Doc Id #188882**, and ***Smt. Anjali and others v.* *Lokendra Rathod and others*, 2023 (1) R.C.R. (Civil) 22 : Law Finder Doc Id # 2081014**. Therefore, in the case in hand, same parameters as laid down by the Hon'ble Apex Court are applied for the purpose of calculation of compensation. For the sake of convenience, a comparative table of the compensation as assessed and calculated by Ld. Tribunal and this Court is produced below in a tabular

form:

Sr. No.	Head	Compensation awarded by Ld. Tribunal	Compensation Awarded by High Court
1.	Income	Rs. 22,500/- p.m.	Rs. 25,000/- p.m.
2.	Future Prospects	Rs. 9,000/- (40% of the income of the deceased)	Rs. 10,000/- (40% of the income of the deceased)
3.	Deduction towards personal expenses	Rs. 7,875/- [i.e. 1/4th (one-fourth) of Rs. 31,500/-]	Rs. 8,750/- ([i.e. 1/4th (one-fourth) of Rs. 35,000/-]
4.	Total Annual Income	Rs. 2,83,500/- (Rs. 23,625/- x 12)	Rs. 3,15,000/- (Rs. 26,250/- x 12)
5.	Multiplier	15	15
6.	Loss of Dependency	Rs. 42,52,500/- (i.e. 2,83,500/- x 15)	Rs. 47,25,000/- (i.e. 3,15,000/- x 15)
7.	Medical expenses	NIL	NIL
8.	Funeral Expenses	Rs. 15,000/-	Rs. 25,000/-
9.	Loss of Estate	Rs. 15,000/-	Rs. 20,000/-
10.	Loss of Spousal Consortium	Rs. 40,000/-	Rs. 44,000/-
11.	Loss of Parental Consortium	NIL	Rs. 88,000/- (Rs. 44,000/- each to the claimant No. 2 and 3)
12.	Loss of Filial Consortium to parents i.e. to mother of the deceased	NIL	Rs. 44,000/-
13.	Total Compensation to be Paid	Rs. 43,22,500/- (rounded of as Rs. 43,23,000/-)	Rs. 49,46,000/-

11. Counsel for the appellants further submits that the rate of interest awarded by the Ld. Tribunal i.e. at 9% per annum from the date of filing of the claim petition till its realization is worth to be enhanced to 12% per annum in view of the settled proposition of law established by the Apex Court and applied by this Court.

However, learned counsel appearing on behalf of respondent No.3 -Insurance Co., submits that the rate of interest should not be over the awarded amount and therefore, it should be reduced to the rate of 6% per annum.

12. I have gone through the judgments cited by counsel for the appellants (claimants) and thus, I deem it appropriate to grant the rate of interest at 7.5% per annum.

13. Thus, keeping in view the aims and objects of this beneficial legislation of providing relief to the victims or their families, the total compensation payable to the appellants (claimants) is **Rs.49,46,000/-** along with interest at **7.5%** per annum from the date of filing of claim petition till the date of payment of compensation to the appellants (petitioners/claimants).

14. Needless to mention that out of the total payable compensation amount, already paid amount (if any) in compliance to the impugned award, would be adjusted and the amount of compensation awarded shall be distributed between the claimants in the same ratio as provided by the Ld. Tribunal and the amount awarded to minor claimants i.e Petitioner No. 2 and 3 shall be disbursed to them only after their attaining majority, as provided by the Learned Tribunal.

15. Therefore, by partly modifying the award, appeal is allowed with the terms indicated here-above.

16. Pending Miscellaneous application(s), if any, also stands disposed of.

(SANJAY VASHISTH)
JUDGE

October 05, 2023
J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No