140 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-6413-2023 (O&M)
Date of decision: 13.12.2023

Kamaldeep Kaur and others

....Appellants

Versus

Ajay Kumar and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Chetan Goyal, Advocate for the appellants

Mr. Sanjeev Kodan, Advocate for respondent no.2

ANIL KSHETARPAL, J (Oral)

1. This is the claimants' appeal for modification of the award passed by the Motor Accident Claims Tribunal (hereinafter referred to as 'the Tribunal'), Rupnagar.

2. The limited issue which requires adjudication is with respect to the appropriate amount to which the claimants are entitled on account of unfortunate death of Sh.Jagjit Singh, in an automobile accident, which took place on 14.09.2022. This claim petition was filed by as many as five claimants including widow, two minor children and aged parents of late Sh.Jagjit Singh. Sh. Jagjit Singh lost his life in an accident. At the relevant time, he was going to his village Issru from Ekolaha on scooter bearing registration plate no.PB-12-DL-4851 and when he reached near the cremation ground of Village Issru, one Innova car bearing registration no. HR-29-T-

1467 came from back side and hit the scooter driven by late Sh.Jagjit Singh, who fell down on the road and received multiple serious head injuries and ultimately the injuries resulted in his death. FIR No. 152 dated 15.9.2022 was registered against respondent no.1 by Sh.Baldev Singh, the father of late Sh.Jagjit Singh.

3. The Tribunal has assessed the income of the deceased at the rate of Rs.10,000/- per month, while treating him a semi-skilled worker.

4. Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

5. Learned counsel representing the appellants has also produced copies of deposition of Sh.Baldev Singh and other relevant documents produced in evidence. He contends that the Tribunal has erred in assessing the income of the deceased merely at the rate of Rs.10,000/- per month, particularly when Sh.Baldev Singh has deposed that the deceased was running Arsh Digital Studio in village Ekolaha. He submits that the Tribunal has overlooked the fact that the deceased was residing close to the tricity namely Chandigarh, Mohali and Panchkula and was running his own photo studio.

6. On the other hand, the learned counsel representing the respondent contends that no documentary evidence has been produced to prove the income of the deceased.

7. It is indisputable that no documentary evidence has been produced to prove the income, however, there are certain facts, which have come on record:-

i) Late Sh.Jagjit Singh was the owner of Arsh Digital Studio.

ii) When the accident took place, he was riding his scooter to his village.

iii) He was having a Permanent Account Number, which was issued to him by the Income Tax Department.

iv) He was around 43 years of age and therefore, had sufficient experience of running a photo studio.

v) Lastly, he was having five dependents i.e his widow, two children and aged parents. The accident took place in the year 2022. Hence, the Tribunal has erred in assessing the income of the deceased at the rate of Rs.10,000/- per month. In such circumstances, the court is left with no choice but to apply a thumb rule.

8. The court after taking into consideration the overall facts and evidence, considers it appropriate to assess the income of the deceased at the rate of Rs.15,000/- per month. The Tribunal has also erred in awarding the amount of Rs.44,000/- towards the loss of consortium to the widow. Since the accident took place in the year 2022, the amount of loss of consortium to the widow shall be Rs.48,000/-. The other claimants namely two minor children as well

as the aged parents shall also be entitled to loss of consortium as held by the Hon'ble Supreme Court in **New India Assurance Co. Ltd. vs. Somwati and others Civil Appeal No.3093 of 2020, decided on 07.09.2020 and United India Insurance Company Ltd. vs. Satinder Kaur @ Satwinder Kaur and others, (2020) SCC Online 410.** Thus, each of the claimant shall be entitled to loss of consortium at the rate of Rs.48,000/-. Even for the funeral expenses and loss of estate, the amount is enhanced to Rs.18,000/- each.

9. In view of the aforesaid, the amount of compensation is recalculated as under:-

Heads	Amount awarded by the MACT	Amount awarded by the High Court
Monthly income	Rs.10,000/-	Rs.15,000/-
Future prospects (25%)	Rs.10,000+2500= Rs.12,500/-	Rs.15,000+ 3750= Rs.18,750
Dependency (1/4th)	Rs.12,500-3125= Rs.9375/-	Rs.18,750-4867= Rs.14,063/-
Multiplier + annual income	Rs.9375x14x12= Rs.15,76,000/-	Rs.14,063x14x12= Rs.23,62,584/-
Funeral expenses	Rs.16,500/-	Rs.18,000/-
Loss of estate	Rs.16,500/-	Rs.18,000/-
Filial and spousal consortium	Rs.44,000/-	Rs.48,000x5= Rs.2,40,000/-
Total amount awarded	Rs.16,52,000/-	Rs.26,38,584/-
Enhanced compensation	Rs.26,38,584-Rs.16,52,000 =Rs.9,86,584/	

10. The enhanced amount of compensation shall be payable to the claimants along with interest as awarded by the Tribunal.

11. Disposed of.

12. All the pending miscellaneous applications, if any, are also disposed of.

13.12.2023 **(ANIL KSHETARPAL)**
rekha **JUDGE**

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