IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-369-1994
Date of decision : 12.12.2024

Manjit Kaur and others ...... Appellants

versus

State of Punjab and others ...... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Rahul Bansal, Advocate for the appellants.

Mr. Iqbaljit Singh Kingra, Sr. DAG, Punjab.

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<u>PANKAJ JAIN, J. (Oral)</u>

1. Claimants are in appeal. Challenge in this appeal is to the award dated 22.07.1993 passed by learned Motor Accident Claims Tribunal, Jalandhar (hereinafter referred to as 'Tribunal'). Appellants are seeking enhancement of compensation.

2. As per the claim petition, one Mohinder Singh (husband of appellant No.1) died in a motor vehicular accident on 28.03.1991 at about 07.00 a.m. Accident occurred due to rash and negligent driving of respondent No.3. The offending vehicle came from the wrong side of the road and ran over the deceased who was going on the correct side by his bicycle.

3. Respondents No.1 and 2 filed joint written statement, whereas respondent No.3-driver filed a separate written statement and denied the averments made in the claim petition and prayed for dismissal of the same.

4. On the pleadings of the parties, the learned MACT framed the following issues:-

> *"1. Whether the accident took place due to the rash and negligent driving of vehicle by respondent No.3? OPA*
>
> *2. If issue No.1 is proved to what amount the petitioners are entitled to compensation and from whom? OPA*
>
> *3. Relief."*

5. In the present appeal, the dispute only relates to quantum of compensation. Tribunal awarded compensation as under:-

(i)	Manjit Kaur, claimant No.1	Rs.40,000/-
(ii)	Sukhjinder Kaur, Balwinder Kaur, minor daughters. (Claimants No.2 and 3).	Rs.30,000/- each. The amount be deposited in their names in the form of F.D.R. in the Union Bank of India, Chandan Nagar, Jalandhar and be not returned till they attain the age of majority.
(iii)	Charanjit Singh, claimant No.4	Rs.20,000/-
(iv)	Bawa Singh, claimant No.5	Rs.24,400/-

6. Counsel for the appellants submits that the deceased was employed as a Foreman, drawing salary of Rs.4,500/- per month, however the Tribunal has wrongly assessed the income of the deceased @ Rs.1,500/-. Thus, the income of the deceased needs to be enhanced from Rs.1,500/- to Rs.4,500/- per month for the purpose of computing compensation payable to the claimants.

7. *Per contra* counsel for the State asserts that the Tribunal has rightly assessed the income of the deceased @ Rs.1,500/- per month as no evidence has been produced to show that the deceased was in fact

employed as alleged and no documentary proof regarding his income was available.

8. Having heard learned counsel for the parties and after perusing the records of the case carefully, this Court is of the considered opinion that award passed by the MACT needs to be modified. Counsel for the respondent-State is right in asserting that income of the deceased cannot be assessed in the absence of original record of the employer. However, at the same time, it cannot be denied that evidence with respect to the deceased being employed is on record. Thus, it has been proved that the deceased was employed at the time of his death. Thus, the income of the deceased is assessed @ 4,500/- per month. The deceased being 48 years of age, the claimants are entitled for 40% future prospects as per the guidelines issued by the Apex Court in **National Insurance Company Limited vs. Pranay Sethi and others 2017 (16) SCC 680**. For loss of consortium, the appellants No.1, 4 and 5 are entitled for Rs.48000/- each and Rs.18,000/- each under the conventional heads. Deduction will abide by the ratio of law laid down in **Pranay Sethi's case (supra).**

9. As a sequel of the discussion made hereinabove, the appeal preferred by the appellants is disposed off. The award passed by the Tribunal is modified to the aforesaid extent. The amount shall be apportioned between the claimants as held by the Tribunal in para 18 of the award. The claimants shall further be entitled for the interest calculated @ 8% per annum from the date of application till the date of actual realization as awarded by Tribunal. Needless to say amount already paid shall be adjusted.

10. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

12.12.2024
Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No