IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-4804-2002 (O&M)

Reserved on : 13.09.2024
Pronounced on : 18.12.2024

Raj Kaur and others ...Appellants

Vs.

Mrs. Shaina Rana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA.

Present: Ms. Ekta Thakur, Advocate and
Ms. Muskan Payyal, Advocate
for the appellants.

Mr. Narinder S.Lucky, Advocate
for respondent No.2.

Mr. Deepak Gupta, Advocate
for respondent No.3-Insurance Company.

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DEEPAK MANCHANDA, J.
CM-15132-CII-2024

The applicant-appellants have filed this application for placing on record certain documents.

Application is allowed. The same are taken on record.

FAO-4804-2002

The appeal is for enhancement of claim of compensation for death of a male aged 42 years. The claimants were widow, three children (two major and one minor at the time of accident) and parents of the deceased. The deceased was working as Senior Assistant in the office of

Punjab Mandikeran Board and as per his salary certificate Ex.P2, was earning Rs.12,115/- per month. The Tribunal deducted Rs.1000/- per month towards income tax and Rs.1520/- towards travelling allowance as well as medical allowance rounding off to Rs.10,595/-. The Tribunal further deducted 1/3rd of the total salary, i.e. Rs.3535/- towards personal expenses of the deceased and took the actual income of the deceased as Rs.7060/- per month and adopted a multiplier of '10' and granted a total compensation of Rs.8,47,200/-.

2. Learned counsel appearing for the appellants submits that the Tribunal has erred in deducting Rs.1000/- per month from the salary of the deceased towards income tax and an amount of Rs.250/- for medical allowance and Rs.270 for conveyance allowance. Thus, the Tribunal wrongly deducted an amount of Rs.520/- out of total income of deceased while determining the dependency of the claimant/appellants. She further contends that the deceased was looking after his six family members, therefore, deduction of 1/4th was to be applied instead of 1/3rd. She also contends that the deceased was aged 42 years and the Tribunal has applied a wrong multiplier of '10' whereas it should have been '16'. Learned counsel submits that no compensation has been awarded towards loss of consortium, funeral expenses and loss of estate. She further contends that Chanan Singh (deceased) met with the accident on 15.2.2000 and he expired on 22.2.2000 during treatment, however, no compensation towards medical expenses, transportation, diet, pain and suffering, attendant charges has been awarded.

3. On the other hand, learned counsel for respondent No.2 and respondent No.3-insurance company submitted that the compensation granted by the Tribunal is just and fair and no interference is required and

the appeal deserves to be dismissed.

4. I have heard the learned counsel for the parties and have gone through the case file as well.

5. After hearing the learned counsel for the parties and perusing the award passed by the Tribunal, this Court is of the view that the compensation awarded needs to be revisited and reassessed.

6. It has been established on record that the deceased was working as Senior Assistant in the office of Punjab Mandikeran Board and was receiving a monthly salary of Rs.12,115/- per month. As the deceased was a Government employee, therefore, as per the prevalent Income Tax slab at the time of accident, a sum of Rs.700/- per month is assessed towards income tax. Since the allowances were paid as part of salary, therefore, this Court is of the opinion that no deduction is admissible towards the same. Therefore, after deducting income tax from the salary of the deceased, this Court assess the income of the deceased as Rs.11,415/- per month.

7. Keeping in view the family status of deceased, as he was looking after a family of six persons, therefore, a deduction of 1/4th towards personal expense of the deceased has to be made, making the actual income to Rs.8561/- per month. As the deceased was a Government servant and there was every chance of his promotions etc., therefore, as per ***National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680***, an addition of 25% is required to be made towards future prospects, which comes to Rs.10,701/- per month [Rs.8561 + 2140 (25% of 8561)], the annual income whereof comes to Rs.10,701x12=Rs.1,28,412/-.

8. Considering the age of the deceased at the time of accident to be 42 years, as per the guidelines laid down in ***Smt. Sarla Verma's case*** (supra)

appropriate multiplier of '14' has to applied to work upon the compensation. Thus, the compensation would come to Rs.1,28,412 x 14 = Rs.17,97,768/- towards loss of dependence.

9. The claimant-wife shall be entitled to Rs.50,000/- towards loss of consortium and the other claimants are also entitled to Rs.1,50,000/- towards loss of love and affection. In addition, the claimants are held entitled to Rs.25,000/- towards funeral expenses. Further, the claimants are held entitled to Rs.50,000/- towards loss of estate.

10. It has come on record that the deceased remained hospitalized for 8 days at PGI, Chandigarh for the injuries suffered in the accident and succumbed to the same. For the said period, the deceased must have been undergone medical expenses, pain and suffering, transportation and other expenses as well. Therefore, considering the same, a lump-sum amount of Rs.1,00,000/- is awarded towards the aforesaid heads.

11. Accordingly, the appellant-claimants are held entitled for compensation as under:-

1.	Loss of Dependence	:	Rs.17,97,768/-
2.	Loss of Consortium	:	Rs.50,000/-
3.	Loss of Love and affection	:	Rs.1,50,000/-
4.	Funeral Expenses	:	Rs.25,000/-
5.	Loss of Estate	:	Rs.50,000/-
6.	Medical Treatment/Hospitalization, etc.	:	Rs.1,00,000/-
	TOTAL	**:**	**21,72,768/-**

Compensation awarded by the High Court	:	Rs. 21,72,768 /-
Compensation awarded by the MACT	:	Rs. 8,47,200/-
Enhanced Compensation	:	Rs.13,25,568/-

12. As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be Rs.13,25,568/-. On the enhanced amount of the compensation, the appellant-claimants shall be

entitled to the interest, at the rate of 6% per annum, from the date of filing of the claim petition till realization of the enhanced amount of compensation. The enhanced amount of compensation will be shared by the claimants in the same proportion as awarded by the Tribunal. Accordingly, the impugned Award dated 21.5.2002 stands modified to the extent as indicated aforesaid.

13. The liability shall be in the same manner as determined by the Tribunal.

14. The appeal is allowed to the above extent.

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

18.12.2024 **(DEEPAK MANCHANDA)**
Gulati **JUDGE**

Whether Reportable	:	Yes/No
Whether Speaking/Reasoned	:	Yes/No