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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-429-2014 (O&M)
Date of decision : 26.02.2024

Maya Devi ... Appellant(s)

Versus

Veeru Lal and others ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Vipul Sharma, Advocate (Amicus Curiae) and
Mr. Raghav Dev Sharma, Advocate for the appellant.

Mr. R.C. Gupta, Advocate for respondent No.3.

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by the claimant-appellant aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Pathankot vide award dated 01.10.2013.

2. Since the facts, as recorded in the impugned award passed by the Tribunal, are not in dispute, the same are not being reproduced herein for the sake of brevity.

3. The Tribunal in the present case had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	Rs.4,000/-
2	Annual Income	[Rs.4,000x12] = Rs.48,000/-
3	Deduction 50%	[Rs.48,000-24,000] = Rs.24,000/-

4	Multiplier - 17	[Rs.24,000x17] = Rs.4,08,000/-
5	Funeral expenses and consortium	Rs.10,000/-
6	Total Compensation	**Rs.4,18,000/-**
	Interest	**6% per annum**

4. Learned counsel for the claimant-appellant would contend that the salary of the deceased was Rs.6,300/- per month and the same stood duly proved. The deceased was working as a JCB Operator in GREF and his salary slips were also proved on the record as Ex.A3. It is further the contention of the learned counsel that AW3 Jeewan Chandra Upreti deposed that the deceased was working in their department as JCB Operator at Dhar Kalan and was drawing a salary of Rs.6,300/- per month. It is further the contention of the learned counsel that though the salary stood proved, however, since it was stated by the witness that the deceased was employed as a casual labourer, hence his earning was assessed as per that of a casual labourer as Rs.4,000/- per month. The learned counsel would further contend that in view of the fact that there is sufficient evidence on the record to prove that the salary of the deceased at the time of the accident was Rs.6,300/- per month, the income of the deceased ought to have been assessed as Rs.6,300/- per month instead of Rs.4,000/- per month. It is further the contention of the learned counsel that though multiplier of '17' as well as a deduction of 50% was applied correctly, however, no addition has been made towards future prospects which ought to have been 40%. It is further the contention of the learned counsel that the amount of Rs.10,000/- awarded towards funeral

expenses and consortium is also on the lower side. In support of his contentions the learned counsel for the claimant-appellant has relied upon the judgments of the Hon'ble Supreme Court in the cases of **National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017) 16 SCC 680]**, **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & Ors. [(2018) 18 SCC 130]** and **N. Jayasree & Ors. vs. Cholamandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**.

5. *Per contra*, the learned counsel for respondent No.3-Insurance Company has vehemently argued that sufficient amount has already been awarded as compensation in the present case and that there is no scope of any enhancement. The learned counsel has further contended that income of the deceased has rightly been assessed as Rs.4,000/- per month as it was stated by AW3 Jeewan Chandra Upreti that the department used to employ the persons as casual employees and after completion of work they were discharged by the department.

6. I have heard the learned counsel for the parties.

7. In the present case at the time of the accident i.e. 09.03.2012 the deceased was working as a JCB Operator in GREF and was drawing a salary of Rs.6,300/- per month. AW3 Jeewan Chandra Upreti deposed that the deceased was working in their department and was drawing a salary of Rs.6,300/- per month. He also proved on record the salary slip (Ex.A3) issued by Assistant Engineer, Office Incharge. Merely because it was stated by the said witness that the deceased was not a permanent employee would

not be any reason to assess the income of the deceased as Rs.4,000/- per month. In view thereof, the monthly income of the deceased is assessed as Rs.6,300/-. In the present case, the Tribunal has though rightly applied a multiplier of '17' as well as deduction of 50%, however, no addition has been made towards future prospects and hence as per the law laid down by the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), 40% addition is made towards future prospects as the deceased was stated not to be a permanent employee. Further, the amount awarded towards funeral expenses and loss of consortium is not as per the law laid down by the Hon'ble Supreme Court in the cases of **Pranay Sethi** (supra), **Magma General Insurance Company Limited** (supra) and **N. Jayasree** (supra) and hence the claimant-appellant would be entitled to Rs.18,000/- (Rs.15,000+20% increase) towards loss of estate and Rs.18,000/- (Rs.15,000+20% increase) towards funeral expenses and the claimant-appellant would also be entitled to Rs.48,000/- (Rs.40,000+20% increase) towards loss of consortium.

8. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	Rs.6,300/-
2	Annual Income	[Rs.6,300 x 12] = Rs.75,600/-
3	Deduction 50%	[Rs.75,600 - 37,800] = Rs.37,800/-
4	Future Prospects - 40%	[Rs.37,800 + 15,120] = Rs.52,920/-
5	Multiplier - 17	[Rs.52,920 x 17] = Rs.8,99,640/-
6	Loss of estate	Rs.18,000/-
7	Funeral expenses	Rs.18,000/-
8	Loss of consortium	

	(i) Filial	Rs.48,000/-
	Total Compensation	**Rs.9,83,640/-**

9. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 6 % per annum from the date of filing of the claim petition till realization of the entire amount.

10. In view of the above discussion, the present appeal is allowed and the award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

26.02.2024 **(ALKA SARIN)**
Yogesh Sharma **JUDGE**

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO