



FAO No.1923 of 2017 (O&M)

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No.1923 of 2017 (O&M)

Date of Reserve: 24.07.2024

Date of Decision: 09.08.2024

GURMEET KAUR

.....Appellant(s)

Vs

SHIV KUMAR AND OTHERS

....Respondent(s)

CORAM: *HON'BLE MR. JUSTICE HARKESH MANUJA*

Present: Mr. Chaman Deep, Advocate for
Mr. Ivneet Singh Pabla, Advocate
for the appellant.

Mr. Punit Jain, Advocate
for respondent No.2/Insurance Company.

HARKESH MANUJA, J.

[1]. By way of present appeal, challenge has been laid to an award dated 03.09.2016 passed by the learned Motor Accident Claims Tribunal, SAS Nagar (Mohali) (hereinafter to be referred as "the Tribunal"), whereby an amount of Rs.1,75,000/- as compensation was awarded to the appellant/claimant along with interest @ 6% per annum.

[2]. Appellant and respondent Nos.3 to 5 being family members of deceased, filed claim petition before the Tribunal praying for grant of compensation to the tune of Rs.70,00,000/- (Rupees Seventy Lakhs only) along with interest @ 12% per annum on account of death of Neeka Singh in a motor vehicular accident which took place on 27.07.2015 while alleging rash and negligent driving of respondent No.1/driver.

[3]. Learned Tribunal after appraisal of evidence and record held that accident occurred due to rash and negligent driving of respondent No.1/driver and



FAO No.1923 of 2017 (O&M)

after assessing that deceased was getting pension which would be received by the appellant; agricultural land would be inherited by his heirs and as such no loss of income would have occurred, awarded compensation only to the appellant in the following manner: -

S.No	Heads of Claim	Amount (in Rs)
1.	Loss of Consortium	Rs.1,00,000/-
2.	Loss of Estate	Rs.50,000/-
3.	Funeral Expenses	Rs.25,000/-
	Total	Rs.1,75,000/-

[4]. Being aggrieved against the award dated 03.09.2016, the present appeal has been preferred by the appellant/claimant for enhancement of compensation. Facts as specified in the claim petition and the issue regarding negligence of the driver as held by the Tribunal being in favour of appellant, therefore, for the sake of brevity, those are not being repeated here.

[5]. Learned counsel for the appellant/claimant assailed the award by submitting that the deceased was drawing pension from Indian Air Force and Fire Department, Punjab besides, with being an agriculturist also doing dairy farming and, thus, was earning Rs.80,000/- per month, however, learned Tribunal mistakenly held that as the pension would be received by the appellant and the agricultural land would be inherited by his legal heirs, as such no loss of income was suffered by the claimants. He further contended that the learned Tribunal erred while not applying multiplier to the income of the deceased in view of settled law. He even further, submitted that compensation awarded under conventional heads was also on the lower side.

**FAO No.1923 of 2017 (O&M)**

[6]. On the other hand, learned counsel representing Respondent No.2/Insurance Company submitted that the Tribunal rightly assessed that there would be no loss of income in the present case. He further contended that the appellant/claimant been adequately compensated, and the present appeal was, thus, liable to be dismissed.

[7]. I have heard learned counsel for the parties and perused the paper book of the case. I find force in the arguments advanced by the learning counsel for the appellant/claimants.

Question of Income

[8]. In the present case, the deceased retired from Indian Air Force as well as Fire Department, Punjab and was, thus, receiving pension. He was also working as an agriculturist along with doing dairy farming. A perusal of bank statement (Ex.C11) shows that deceased received pension to the tune of Rs.18,955/- per month (Rs.11,083/- + Rs.7,872/-) for the month of July,2015. Further, upon examining Ex.C2 to C5 i.e. J-Forms issued by M/s Raghunath Dass Sohan Lal, Commission Agents, Humayunpur Tassimbly, Lalru Mandi, Punjab and submitted to Agricultural Produce Market Committee, Lalru Mandi, Punjab, it becomes evident that deceased had agricultural income of Rs.1,44,244/- for the year 2011. Therefore, it would be safe to assume that deceased was in fact engaged in agricultural activities and his agricultural income in the year 2015 could be conservatively assessed @ Rs.2,00,000/- per annum (Rs.16,666/- per month).

[8.1]. The Hon'ble Supreme Court in case of **"Sebastiani Lakra vs National Insurance Company Ltd."**, reported as **(2019) 17 SCC 465**, held that pension received by deceased cannot be excluded while computing the income. Relevant para is reproduced hereunder: -

**FAO No.1923 of 2017 (O&M)**

“12. The law is well settled that deductions cannot be allowed from the amount of compensation either on account of insurance, or on account of pensionary benefits or gratuity or grant of employment to kin of the deceased. The main reason is that all these amounts are earned by the deceased on account of contractual relations entered into by him with others. It cannot be said that these amounts accrued to the dependents or the legal heirs of the deceased on account of his death in a motor vehicle accident. The claimants/dependents are entitled to 'just compensation' under the Motor Vehicles Act as a result of the death of the deceased in a motor vehicle accident. Therefore, the natural corollary is that the advantage which accrues to the estate of the deceased or to his dependents as a result of some contract or act which the deceased performed in his life time cannot be said to be the outcome or result of the death of the deceased even though these amounts may go into the hands of the dependents only after his death.”

Thus, total income of deceased assessed at the time of death in motor vehicular accident is Rs.35,621/- per month (Rs.18,955/- from pension + Rs.16,666/- from agricultural activities).

Question of Multiplier and Compensation under Conventional Heads

[9]. In view of judgments of the Hon'ble Apex Court in **“Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another”**, reported as **2009 (3) RCR (Civil) 77**, **“National Insurance Company Ltd. Vs. Pranay Sethi and others”**, reported as **2017(4) RCR (Civil) 1009** and **“United India Insurance Co. Ltd. v. Satinder Kaur @ Satwinder Kaur”**, reported as **(2021) 11 SCC 780**, considering the fact that deceased was 75 years of age at the relevant time multiplier of 4 should be applied to his income while computing loss of dependency. Compensation awarded under conventional heads is also required to



FAO No.1923 of 2017 (O&M)

be reassessed. Claimants are held entitled to Rs.18,000/- as compensation under the head of funeral expenses and Rs.18,000/- towards loss of estate by applying 10% increase under the conventional heads. Loss of consortium is to be awarded to the tune of Rs.48,000/- x 4 (Rs.1,92,000/-) as appellant and respondent nos.3 to 5 being widow and children of the deceased are also entitled for spousal and filial consortium; but simultaneously, they are not entitled for compensation on account of loss of love and affection.

[10]. In view of what has been discussed hereinabove, the appellant and respondent Nos.3 to 5 shall be entitled for the grant of compensation in the following manner:-

Sr.No.	Nature	Amount in Rupees
1.	Annual Income of deceased (Rs.35,621X12)	Rs.4,27,452/-
2.	Deduction (1/4)	Rs.1,06,863/-
3	Net Income after Deduction	Rs.3,20,589/-
4.	Income after applying multiplier of 4 as per age of 75 years (Rs.3,20,589/- X 4)	Rs.12,82,356/-
5.	Funeral Expenses	Rs.18,000/-
6.	Loss of Consortium (Rs.48000x4)	Rs.1,92,000/-
7.	Loss of Estate	Rs.18,000/-
	Total Compensation	Rs.15,10,356/-
	Amount Awarded by the Tribunal	Rs.1,75,000/-
	Enhanced Amount	Rs.13,35,356/-

[11]. The grant of interest @ 6% per annum is just in view of the facts and circumstances of the present case and as per the observations made by the Hon’ble



FAO No.1923 of 2017 (O&M)

Supreme Court in Smt. Supe Dei and others Vs. National Insurance Company Limited and other, (2009) (4) SCC 513 approved in a subsequent judgment titled as Puttamma and others Vs. K.L. Narayana Reddy and another, 2014 (1) RCR (Civil) 443 the interest is enhanced to 9% per annum on the amount of compensation awarded to the claimants from the date of institution of claim petition till its realization. Needless to mention here that the amount of compensation already paid to the claimants shall be deducted from the enhanced compensation.

[11]. In view of aforesaid modification, the present appeal stands disposed of. Pending miscellaneous application(s) if any, shall also stand disposed of.

August 09, 2024
Atik

(HARKESH MANUJA)
JUDGE

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