
(2016) 05 P&H CK 0323
In the Punjab And Haryana At Chandigarh
Case No : FAO No.2022 of 2007

Manjeet Kaur & others

APPELLANT

Vs

Green Roadways Private Limited and Others

RESPONDENT

Date of Decision : 11-05-2016

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2016) 05 P&H CK 0323

Hon'ble Judges : Darshan Singh, J.

Bench : Single Bench

Advocate : Manpreet Singh for S.P.S. Sidhu, Advocates, for the Appellant; Vinod Gupta, Advocate, for the Respondent

Final Decision : Partly Allowed

Judgement

Darshan Singh, J.—The present appeal has been preferred by the appellants-claimants against the award dated 15.09.2006 passed by learned Motor Accidents Claims Tribunal, Moga, whereby the appellants-claimants have been awarded compensation to the tune of Rs. 2,00,000/- on account of the death of Resham Singh in the motor vehicular accident which took place on 10.04.2005.

2. The present appeal has been preferred by the appellants-claimants for enhancement of the amount of the compensation.

3. I have heard Mr. Manpreet Singh, Advocate learned counsel for the appellants and Mr. Vinod Gupta, Advocate learned counsel for respondent No.3-Insurance Company and have carefully gone through the paper book.

4. Learned counsel for the appellant contended that deceased Resham Singh was working with Nastle India Limited and as per the salary certificate Exhibit P-3 he was getting the total salary @ Rs. 16,434.40 per month. He contended that the learned Tribunal has wrongly taken the income of the deceased to be Rs. 5,000/- per month and then wrongly deducted the amount of the family pension. The

deduction towards personal expenses of the deceased has also been wrongly applied 1/3rd instead of 1/4th as the deceased had 4 dependents. No future prospects have been awarded towards the income of the deceased. The multiplier has also been applied wrongly. He further contended that no amount has been awarded by the learned Tribunal towards loss of love and affection to the children and the mother of the deceased. The loss of consortium has also been awarded very less as total Rs. 8,000/- have been awarded for loss of consortium, loss of the estate and funeral expenses. Thus he contended that the learned Tribunal has awarded highly inadequate and insufficient compensation to the claimants.

5. Learned counsel for respondent No.3-Insurance Company contended that the salary certificate Exhibit P-3 could not be taken into consideration as the claimants have not examined any official of the company to prove the employment and the income of the deceased. Thus, he contended that the learned Tribunal has rightly taken the income of the deceased to be Rs. 5,000/- per month. He further contended that the claimants were not entitled to any future prospects. He further contended that the learned Tribunal has taken into consideration all the heads while awarding the compensation.

6. I have duly considered the aforesaid contentions. There is considerable substance in the contentions raised by learned counsel for the appellants-claimants that the compensation awarded by the learned Tribunal is highly insufficient and it cannot be stated to be just compensation for the death of Resham Singh in this motor vehicular accident. The learned Tribunal has computed the compensation by ignoring the basic principal of law.

7. The claimants have alleged that deceased Resham Singh was working with Nastle India Limited and was getting Rs. 16,000/- per month as salary. They have brought on file the salary certificate Exhibit P-3 but there is no denial to the fact that the appellants have not examined any official of the company to prove the salary certificate. Only Sukhwant Singh (PW-1) witness of the occurrence and claimant Smt. Manjeet Kaur (PW-2), have stepped into the witness box. The claimants should have examined the official of Nastle India Limited along with service record to prove the salary of deceased Resham Singh. So the salary certificate Exhibit P-3, which is not legally proved, cannot be taken into consideration to prove that the deceased was getting Rs. 16,000/- per month as salary from Nastle India Limited. However, there is no denial to the fact that even the family pension is being given to Smt. Manjeet Kaur the widow of the deceased Resham Singh. So certainly he was the employee of Nastle India Limited. Even by taking the minimum salary he must be getting the salary @ Rs. 5,000/- per month. It is settled principal of law that the amount of family pension, granted to the widow, cannot be deducted from the income of the deceased. So the income of deceased Resham Singh shall be taken to be Rs. 5,000/- per month i.e. Rs. 60,000/- per annum.

8. He was 45 years of age at the time of the death. He was employee in Nastle

India Limited so there was bright prospects of getting appreciation in his salary with the passage of time. Keeping in view the age of the deceased 30% of his income is required to be added towards future prospects. So the total income comes to Rs. 78,000/- per annum.

9. The present claim petition has been preferred by the widow, mother and two sons of the deceased. So the deceased was having four dependants thus 1/4th of the salary shall be deducted towards his personal and living expenses. The remainder come to Rs. 58,500/-.

10. The learned Tribunal has applied the multiplier of 8 only which is totally unjustified. No reasoning has been given by the learned Tribunal as to why the multiplier of 8 has been applied when the age of the deceased was 45 years at the time of the death. The multiplier of 14 shall be applicable as per the law laid down by Hon'ble Apex Court in the case of Sarla Verma (Smt) and others v. Delhi Transport Corporation and Another, (2009) 6 SCC 121. So the amount of compensation on account of loss of dependency comes to Rs. 8,19,000/- (58,500x14).

11. Smt. Manjeet Kaur, widow of the deceased shall be entitled to Rs. 1,00,000/- on account of the loss of consortium. Hardev Kaur, the mother of the deceased shall be entitled to Rs. 1,00,000/- on account of love and affection. Similarly the sons of the deceased Mandeep Singh and Sukhjewan Singh shall also be entitled to a sum of Rs. 1,00,000/- on account of loss of love, care and guidance. The claimants will be further entitled to a sum of Rs. 25,000/- towards funeral expenses. In this way the total amount of compensation comes to Rs. 11,44,000/-, which is payable to the claimants on account of the death of Resham Singh in this motor vehicular accident.

12. Thus keeping in view my aforesaid discussion the present appeal is hereby partly allowed. The amount of compensation, payable to the claimants is enhanced to Rs. 11,44,000/- from Rs. 2,00,000/- awarded by the learned Tribunal. The payment of the enhanced amount of compensation be made within 45 days from today to the claimants, failing which the claimant shall be entitled to interest at the rate determined by the learned Tribunal on the enhanced amount of compensation from the date of the petition till realization. The liability to pay the enhanced amount and apportionment shall be as per the award passed by the learned Tribunal.