(2016) 04 P&H CK 0277

In the Punjab And Haryana At Chandigarh

Case No : FAO No.6009 of 2015

Rinku Devi and others — APPELLANT

Vs

Narinder Singh and others — RESPONDENT

Date of Decision : 29-04-2016

Acts Referred:
Motor Vehicles Act, 1988 — Section 166

Citation : (2016) 4 PLR 436

Hon'ble Judges : Darshan Singh, J.

Bench : Single Bench

Advocate : S.K. Tripathi, Advocate, for the Appellant; Punit Jain, Advocate, for the Respondent

Final Decision : Partly Allowed

Judgement

Darshan Singh, J.—The present appeal has been preferred by the appellantsclaimants against the award dated 18.03.2015, passed by the learned Motor Accidents Claims Tribunal, Gurgaon (hereinafter called the ''Tribunal''), vide which they has been awarded compensation to the tune of Rs. 11,05,970/- along with interest on account of death of Sanjay Mehta alias Sanjay Mehto, in the motor vehicular accident which took place on 13.03.2014.

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

3. Learned counsel for the appellants-claimants contended that the deceased was a professional electrician. He was also an income tax payee and was earning Rs. 35,000/- per month. But the learned Tribunal has taken the income of the deceased only to be Rs. 5000/- per month that of an unskilled labourer. He contended that even the income of the unskilled labourer at that time was more than Rs. 7000/- per month. At the time of argument, learned counsel for the appellants has produced the certified copy of computation of income of the deceased for the assessment year 2012-13. Thus, he contended that income of

the deceased has been taken by the learned Tribunal on lower side. He further contended that 50% of the income of the deceased should have been added towards future prospects instead of 30% as the deceased was 37 years of age.

4. On the other hand, learned counsel for the respondent- Insurance Company contended that no evidence was adduced by the claimants to establish that deceased was an electrician. The computation of income produced by learned counsel for the appellants has no authenticity as it does not bear the signature of the deceased. It is also not known as to whether the same was filed in the office of the Income Tax department or not. Moreover, it is not the copy of the income tax return. Thus, he contended that the learned Tribunal has rightly taken the income of the deceased. He further contended that as the deceased was more than 40 years of age, so the future prospects at the rate of 50% could not have been taken.

5. I have duly considered the aforesaid contentions.

6. As per the case of the appellants-claimants, deceased Sanjay Mehta alias Sanjay Mehto was working as an electrician and was earning Rs. 35,000/- per month and was also an income tax payee. The learned Tribunal has categorically mentioned that no documentary evidence has been produced by the claimants to prove the income of the deceased Sanjay Mehta alias Sanjay Mehto. No doubt at the time of arguments, learned counsel for the appellants has produced the certified copy of the computation of income, which has been issued by the Copying Agency, District & Sessions Judge, Gurgaon, but this computation of income has no authenticity and cannot be relied upon as this document does not bear any signature of deceased Sanjay Mehta alias Sanjay Mehto. There is no material on record to show that this computation of income was ever submitted in the office of the Income Tax department. It also cannot be stated to be the part of the income tax return as the income tax return is always on prescribed/ printed performa and not on the plain paper. This computation of income is not accompanied with such prescribed or printed performa of the income tax return. So, this document produced by learned counsel for the appellant at the time of argument cannot be taken into consideration. Consequently, no fault can be found with the conclusion of the learned Tribunal that the deceased was to be taken only an unskilled labourer. The learned Tribunal has taken the income of the deceased to be Rs. 5000/- per month. As per the notification of minimum wages for unskilled workers issued by the Haryana Government for the relevant period, the minimum wages were 5547.10. To make it a round figure, we can take it as Rs. 5550/- per month.

7. 50% of the future prospects are required to be added where the deceased is below 40 years of age, but in the instant case in the post mortem report Ex.P5 the age of the deceased was mentioned as 40 years. Even in the computation of income, produced by the learned counsel for the appellants, the date of birth of the deceased is mentioned as 01.03.1974. This accident has taken place on 13.03.2014. In this way, he has already crossed the age of 40 years. So, no fault

can be found with the view of the learned Tribunal adding 30% of the income of the deceased as future prospects. The annual income of the deceased after adding the future prospects comes to Rs. 86,580/- (5550+1665 x 12). There were four dependents. So, 1/4th of the income of the deceased shall be deducted towards his personal and living expenses. The remainder comes to Rs. 64,935/-. In view of the age of the deceased, the multiplier of 15 shall be applicable. Thus, the loss of dependency comes to Rs. 9,74,025/-. In this way, the loss of dependency is increased to Rs. 9,74,025/- instead of Rs. 8,77,500/- as determined by the learned Tribunal.

8. With the aforesaid increase, the amount of compensation payable to the appellants-claimants will be as under:-

Sr.No

Compensation heads

Amount in rupees

1.

Loss of dependency

9,74,025

2.

Loss of consortium

1,00,000

3.

Loss of love and affection of children

1,00,000

4.

Funeral expenses

25,000

Total

11,99.025

9. In this way the amount of compensation is enhanced to Rs. 11,99,025/- instead of Rs. 11,05,970/- as awarded by the learned Tribunal.

10. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation payable to appellants-claimants is enhanced to Rs. 11,99,025/- from Rs. 11,05,970/- as awarded by the Tribunal. The appellants-claimants shall also be entitled to interest on the enhanced

amount from the date of filing the petition till realisation at the rate as determined by the learned Tribunal. The liability to pay the enhanced amount shall remain as determined by the learned Tribunal in the main award.

