IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5844 of 2002 (O&M)
Date of decision: 30.07.2015

Kuldeep Kaur and another ....Appellants

Versus

Satnam Singh and others ....Respondents

CORAM: HON'BLE MR. JUSTICE K.C. PURI.

Present: Mr. Ishpuneet Singh, Advocate
with Ms. Jatinderjit Kaur, Advocate
for the appellants.

Mr. Harjinder Singh, Advocate
for respondent No.3.

K.C. PURI J. (Oral)

This is an appeal directed by the parents of the deceased-Harpreet Kaur against the award dated 05.09.2002 passed by Sh. J.P. Mehmi, Motor Accident Claims Tribunal, Jalandhar.

The claimants have claimed the amount of Rs.5,00,000/- compensation on account of death of Harpreet Kaur in a motor vehicular accident on 04.09.1996.

The learned Tribunal partly accepted the claim petition and allowed a sum of Rs.94,500/- along with interest @ 9% per annum from the date of petition till realization. The appellants have directed this appeal for enhancement of compensation.

The learned Tribunal has assessed the dependency of Rs.1,000/- of the claimants and multiplier of 3 for a period of three years has been applied before marriage and thereafter, the dependency has been taken as Rs.5,00/- per month and multiplier of 9 has been applied for the remaining period. So, in this manner a sum of Rs.36,000/- prior to the marriage and Rs.54,000/- after the marriage was assessed and a total sum of Rs.90,000/- was assessed. Rs.2,000/- was allowed in respect of funeral expenses and Rs.2,500/- was allowed in respect of loss of estate. So, in this manner the total amount was calculated as Rs.94,500/-.

Learned counsel for the appellant has submitted that split multiplier should not have been applied. He has further submitted that gender discrimination cannot be allowed. A daughter also contribute towards family. He has further submitted that no future prospects have been taken into account. The amount granted in respect of funeral expenses and loss of estate is on lower side. It is also contended that multiplier should have been applied at the age of the deceased and not at the age of the parents.

On the other hand, learned counsel for the insurance company has supported the award and has submitted that 50% amount should be deducted in respect of personal expenses as the deceased was a bachelor. The deceased was not a permanent government employee and as such, no amount in respect of future prospects can be allowed. It is further submitted that *t*he matter regarding future prospects is pending before the Larger Bench in Hon'ble Apex Court in ***"National Insurance Company Limited Vs Pushpa and others"*** vide **SLP No.8058/2014**.

I have considered the submissions made by learned counsel for both the parties and have gone through the record of the case.

The claimant has alleged that the deceased was earning Rs.4,000 to Rs.5,000/- per month from tuition work. The Tribunal has taken the dependency to the extent of Rs.1,000/- for three years and Rs.500/- for nine years. However, the split multiplier has been dis-approved by the Hon'ble Apex Court in authority ***"Puttamma and others vs K.L. Narayana Reddy and another"*** reported in **2014 (1) R.C.R. (Civil) 443**. So, the income of the deceased can be taken as Rs.2,000/- per month in the year 1996.

The next question which arises for determination is whether the future prospects should have been allowed. No doubt the matter is stated to have been pending before the Larger Bench, but the Hon'ble Apex Court in recent authorities ***"Rajesh and others vs Rajbir Singh and others"*** reported in **2013(3) R.C.R. (Civil) 170** and ***"Munna Lal Jain and another vs Vipin Kumar Sharma and others"*** reported in **Civil Appeal No.4497 of 2015** decided on **15.05.2015**, has held that future prospects in respect of fixed salaried person/self-employed person should also be taken into account. The deceased was 25 years and as such, in view of authority ***"Rajesh and others Vs. Rajbir Singh and others"*** reported in **2013(3) R.C.R. (Civil) 170**, 50% amount has to be added in respect of future prospects. So, by adding 50% amount in respect of future prospects, the income of the deceased comes to Rs.3,000/- per month. The dependency as per ***"Smt. Sarla Verma and others vs. Delhi Transport Corporation and another"*** reported in **2009(3) R.C.R. (Civil) 77**, has to be calculated by deducting ½ in respect of personal expenses. So, the dependency of the claimants comes to Rs.1,500/- per month. The yearly dependency comes to Rs.18,000/- (1500 x 12). The multiplier applicable at the age of 25 years as per Sarla Verma's case (supra) is 18. So, by applying that multiplier, the amount of compensation comes to Rs.3,24,000/-.

The amount in respect of funeral expenses and loss of love and affection has to be allowed by keeping in view the price index of 1996. So, the claimants are held entitled to claim Rs.10,000/- in respect of expenses on last rites and transportation. The claimants are also held entitled to claim Rs.30,000/- in respect of loss of love and affection. So, in this manner, the claimants are held entitled to claim Rs.3,64,000/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of application till payment. The liability to pay the enhanced amount shall be same as ordered by the Tribunal.

The Insurance Company shall have the right to recover the amount from respondents No.1 and 2 as ordered by the Tribunal.

Appeal stands disposed of, accordingly.

A copy of this order be sent to the Tribunal for compliance.

(K.C. PURI)
JUDGE

30.07.2015
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