IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1310 of 1993 (O&M)
Date of Decision: January 23, 2015

Parveen Sharma and another ...Appellant(s)

Versus

Pritam Singh and others ...Respondent(s)

CORAM: HON'BLE MS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? No

Present: Mr. Amandeep Saini, Advocate
for the appellants.

Mr. Abhishek Goyal, Advocate for
Mr. Pardeep Goyal, Advocate
for respondent No.3.

*****

ANITA CHAUDHRY, J.

1. This appeal is by the claimants seeking enhancement in the compensation allowed to them vide award dated 16.12.1992, passed by the Motor Accident Claims Tribunal, Ludhiana (here-in-after referred to as the Tribunal).

2. Briefly narrating the facts. An accident took place on 10.11.1991 which led to filing of two claim petitions seeking compensation for the death of Pawan Kumar and for injuries to Rajinder Paul. This appeal has been filed by the legal heirs of Pawan Kumar. The claimants had pleaded that Pawan Kumar was a Contractor with Municipal Committee and owned two tractors and he had an income between Rs.5,000/- to Rs.6,000/- per month. The Tribunal noted that registration certificates of the tractors were

in the name of three persons. The Tribunal also rejected the note books produced to show the account and considered the income to be Rs.1,200/- per month and after making a deduction for personal expenses, the yearly loss was assessed at Rs.9,600/- and after applying the multiplier of 20, the compensation was calculated at Rs.1,92,000/-. A sum of Rs.3,000/- was added as the amount spent on last rites, making the total compensation payable to be Rs.1,95,000/-.

3. The submission on behalf of the appellants is that the Tribunal had ignored the evidence produced by the claimants and they had produced evidence to show that some works had been allotted to the deceased by the Municipal Committee. It was urged that the deceased owned two tractors and sufficient evidence was adduced and the Tribunal could have made an assessment of the income. It was urged that the father of Pawan had died during the pendency of the appeal. It was further urged that the deduction towards personal expenses should be 1/10th as per Santosh Devi's case. It was urged that an addition towards future prospects should also be made and the appellants were also entitled to compensation on the head of love and affection, funeral expenses and loss of estate. Reliance was placed upon ***Rajesh and others Vs. Rajbir and others (2013) 9 SCC 54, Santosh Devi Vs. National Insurance Co. Ltd. and others 2012(2) RCR (Civil) 882*** *and* ***Vimal Kanwar and others Vs. Kishore Dan and others (2013) 7 SCC 476***.

4. On the other hand, the submission on behalf of respondent no.3-insurance company was that the Tribunal had rightly ignored the evidence and merely because the deceased was a co-owner of the tractor would not mean that he had a high income and the tractor was not owned by him nor there was any material that any income was generated by leasing out the tractors. It was urged that the Tribunal had applied the multiplier of 20 which could not be more than 18. It was further submitted that the material that was placed on record could only prove that some contracts have been given in 1988 and that evidence was not enough to assess the income in 1991. It was urged that the minimum wages in 1991 were not more than Rs.1,000/- per month and the Tribunal had rightly considered the income to be Rs.1,200/- per month and no change in the income should be made. It was urged that the additions on miscellaneous heads cannot be added considering the fact that the accident was 20 years old.

5. Pawan Kumar died in an accident which took place in 1991. The claimants' plea was that the deceased was a contractor and had got contracts from the Municipal Committee. The only document introduced in evidence was the contract of 1988. No account books were produced to show that the income that it had generated out of it and the period during which the work had continued. The minimum wages in Punjab in 1991 were not more than Rs.990/- per month. If we are taking the minimum wages

then an addition towards future prospects have to be added as per Rajesh Vs. Rajbir's case (supra) considering the age of the deceased, 50% addition has to be made towards future prospects and the income would come to Rs.1,980/-, making a deduction of 1/3rd considering the number of dependents, the income available for the family would be Rs.1,320/- per month. The annual dependency would be Rs.15,840/-. After applying the multiplier of 18, the compensation would work out to Rs.2,85,120/-. To this, a sum of Rs.5,000/- is added on account of loss of love and affection for the child and a sum of Rs.5,000/- is added on account of loss of estate. The Tribunal had awarded funeral expenses. An award of Rs.1,95,000/- was passed by the Tribunal which shall be deducted and the remaining amount shall be paid within two months to the appellants in the same ratio as ordered by the Tribunal, failing which the appellants shall be entitled to interest @ 6% from the date of filing of the appeal till realization.

With the aforesaid modification in the impugned award, the appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

January 23, 2015
sunil