IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 247 of 1993
Date of decision: 11.3.2015

Ramu Dass and another

… Appellants

Versus

Rajinder and Others

… Respondents

Present: Mr. G.S. Bawa, Advocate for the appellants.

Mr. Neeraj Khanna, Advocate for Mr. Ravinder Arora, Advocate for respondent No.3.

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S.S. Saron, J.

This order will dispose of FAOs No.247 and 248 of 1993 as these arise out of the same judgment and award dated 10.8.1992 passed by the learned Motor Accident Claims Tribunal ('Tribunal' – for short), Sirsa. FAO No.247 of 1993 has been filed by Ramu Dass son of Khila Ram claiming more compensation for the death of his daughter namely Ms. Moti in a motor vehicle accident. FAO No.248 of 1993 has also been filed by said Ramu Dass along with his brother Ramesh Panchhi claiming more compensation for the death of their mother namely Ms. Surji in the same accident.

Ramu Dass son of Khila Ram along with his minor children namely Babal and Nikki filed claim petition No.9 of 1991 relating to the death of Ms. Moti aged about 15 years who died in a motor vehicle accident that occurred on 24.10.1990. The claim petition of Ramu Dass only was allowed and it was dismissed as against Babal and Nikki. Ramu Dass was awarded a sum of Rs.20,000/- for the death of Ms. Moti.

Ramu Dass and his brother Ramesh Panchhi filed claim petition No.10 of 1991 for the death of their mother namely Ms. Surji aged about 58 years in the same accident that had occurred on 24.10.1990. The learned Tribunal at Sirsa taking her monthly income at Rs.1200/- per month by including the services rendered by her to the members of her family applied a multiplier of 5 and the annual income was assessed at Rs.6000/-. A sum of Rs.2000/- was awarded for funeral expenses and compensation of Rs.32,000/- was awarded.

The appellants in the respective appeals being dissatisfied with the compensation that was awarded have filed the present appeals.

During the pendency of the appeals, these were referred to the Hon'ble Lok Adalat. The case relating to the death of Ms. Moti was considered in the Lok Adalat on 1.2.2012. It was noticed that Ms. Moti was aged 15 years and compensation of Rs.27,000/- had been awarded by the Tribunal at Sirsa to Ramu Dass, father of the deceased. It was contended by Sh. Gurjit Singh Bawa, Advocate for the appellant Ramu Dass that the learned Tribunal lost fight of the fact that in case of a death of a minor, the notional income which is to be taken is Rs.15,000/- per annum and by applying a multiplier of 15, a sum of Rs.2,25,000/- is liable to be awarded as minimum compensation. He, however, submitted that he was willing to settle the matter by way of compromise and his client would be satisfied if another sum of Rs.1 lac more over and above the amount already awarded by the learned Tribunal at Sirsa was granted. The Hon'ble Lok Adalat found the offer to be just and reasonable.

The offer of the learned counsel for the appellant Ramu Dass was, however, not acceded to by the Insurance Company despite taking several adjournments. Accordingly, the case was sent back to this Court vide order dated 29.8.2012.

Learned counsel for the appellant reiterates that the amount of Rs.1 lac over and above the amount that was claimed before the Hon'ble Lok Adalat be awarded to the appellant Ramu Dass for the death of his daughter Ms. Moti for which the appellant would be satisfied.

The case relating to the death of Ms. Surji, mother of the appellants Ramu Dass and Ramesh Panchhi was considered by the Hon'ble Lok Adalat on 29.2.2012. It was noticed that Ms. Surji who died in the motor vehicle accident was aged about 58 years. The learned Tribunal at Sirsa, as already noticed, held her income to be Rs.1200/- per month and the annual income to be Rs.6000/-. By applying a multiplier of 5, the amount compensation payable was assessed to be Rs.30,000/-, besides, Rs.2000/- was awarded as funeral expenses. In all Rs.32,000/- was awarded.

The learned counsel for the appellants Ramu Dass and Ramesh Panchhi had contended that the learned Tribunal at Sirsa wrongly worked out the dependency of Ms. Surji, the deceased and as per the parameters laid down in <u>Sarla Verma and Others v. Delhi Transport Coporation and another,</u> (2009) 6 SCC 121 a multiplier of 8 should have been applied instead of 5 by which the compensation works out to Rs.1,15,200/- (i.e. Rs.1200x12x8), besides, the appellants would be entitled for funeral expenses etc. of

Rs.10,000/-. In this manner, the total amount of compensation works out to Rs.1,25,200/-. Learned counsel for the appellants submitted before the Hon'ble Lok Adata that to settle the matter by way of compromise, his clients would be satisfied if an additional amount of Rs.68,000/- more over and above the amount already awarded by the learned Tribunal at Sirsa is granted to the appellants in full and final satisfaction of the claim in the present appeal. In that eventuality, his client would give up their claim regarding additional amount of compensation of Rs.30,200/- worked out and interest on the enhanced amount from the date of filing the petition before the learned Tribunal at Sirsa.

The Hon'ble Lok Adalat found the offer to be just, reasonable and equitable. The case was adjourned on the request of learned counsel for the respondent-Insurance Company to get concurrence. After taking seven adjournments, again a request was made on 29.8.2012 as the concurrence was still awaited. The Hon'ble Lok Adalat did not find any justification for adjourning the case further. It was observed that it could only be assumed that the Insurance Company was not prepared to grant approval to the proposed enhancement of compensation made vide order dated 29.2.2012. In the circumstances, the case was sent back to this Court for adjudication.

Learned counsel for the appellants reiterates that the amount of Rs.68,000/- over and above the amount that was claimed before the Hon'ble Lok Adalat be awarded to the appellants Ramu Dass and Ramesh Panchhi for the death of their mother Ms. Surji.

Learned counsel appearing for the Oriental Insurance Company Limited in both the appeals submits that the compensation awarded by the learned Tribunal at Sirsa to the appellants in their respective appeals is quite substantial and more compensation is not liable to be given. It is submitted that in fact Ms. Moti who was a girl of 15 years had no income and consequently, no loss was occasioned to her father Ramu Dass (appellant) for her death. Besides, Ms. Surji who was aged 58 years at the time of her demise also had no income and for her death even no loss was caused to her sons Ramu Dass and Ramesh Panchhi who are now the appellants.

I have given my thoughtful consideration to the matter. Insofar as the death of Ms. Moti is concerned, it may be noticed that she was 15 years of age and a compensation of Rs.27,000/- has been awarded to her father Ramu Dass (appellant).

In Gurmeet Kaur v. Punjab Roadways 2006 (3) PLR 858 (P&H) the deceased in the said case who died in a motor vehicle accident was aged 15 years. This Court relying on the judgment of the Supreme Court in Manju Devi and another v. Musafir Paswan and another, 2005 ACJ 99 held that notional income as stipulated in the Second Schedule of the Motor Vehicles Act was to be taken into consideration and therefore, an amount of Rs.15,000/- per annum was to be considered as income of the deceased. Reliance was also placed on a judgment of the Delhi High Court in Shyam Narayan v. Kitty Tours Travels and Others, 2006 (1) RCR (Civil) 555 in which case it was held that though income of a child was incapable of assessment or estimation, yet notional income for compensation in case of fatal accident is to be stipulated at Rs. 15,000/- per annum and parents of the deceased were entitled to compensation of Rs.2,25,000/- on account of loss of financial support and another sum of Rs.15,000/- on account of loss of the company of the child as also pain and suffering suffered by them as a result of untimely death. This Court in <u>Gurmeet Kaur v. Punjab Roadways</u> (supra) held that the mother of the deceased would be entitled to compensation to the tune of Rs.2,25,000/- by taking notional income of Rs.15,000/- per annum.

The Supreme Court in <u>Santosh Rani v. Ranjit Singh</u>, 2008 ACJ 1405 considered the case of a deceased boy aged 13 years stated to be earning Rs.50/- or Rs.60/- per day. The Motor Accident Claims Tribunal in the said case held that no source of income of the deceased was proved, however, it awarded Rs.50,000/- on account of no fault liability. The Supreme Court held that the Tribunal and the High Court completely ignored the factum of loss of life at a tender age, the future prospect of a young man and mental agony suffered by the complainant. It was held that the award of Rs.50,000/- on the basis of no fault liability in the case of death of a person was too meager and it awarded a lump sum compensation of Rs.2,50,000/- to the claimant along with interest as awarded by the Tribunal.

In <u>Smt. Nikki and Others v. State of Haryana,</u> 2014 (2) RCR (Civil) 454 this Court in a case where the deceased aged 1.5 years and the Tribunal had awarded Rs.1 lac as lump sum amount as compensation, held it to be inadequate and it awarded another sum of Rs.2, 50,000/-.

In the present case, therefore, the claim of the appellant for a sum of Rs.1 lac over and above that awarded by the learned Tribunal is just and proper and is liable to be awarded.

As regards the case regarding the death of Ms. Surji, as already noticed, she was 58 years of age and the learned Tribunal at Sirsa assessed her income as Rs.1200/- per month. According to Sarla Verma's case (Supra), a multiplier of 8 should have been applied instead of 5 as had been applied by the learned Tribunal. Therefore, on the basis that the monthly income of Ms. Surji was Rs.1200/- her annual income would work out to Rs. 14,400/- to which a multiplier of 8 is to be applied, which works out to Rs. 1,15,200/-. Besides, the claimants would also be entitled to funeral expenses and other expenses. The learned counsel for the appellants has, however, stated that his clients would be satisfied if Rs.68,000/- over and above that awarded by the learned Tribunal is given, which is fair, just and equitable. The same is liable to be awarded.

Learned counsel for the respondent-Insurance Company has not been able to show as to how the said amounts are in any manner, unjust or unfair.

In the circumstances, both the appeals are disposed of by awarding Rs.1 lac more over and above that awarded by the learned Tribunal to Ramu Dass (appellant in FAO No.247 of 1993) and Rs.68,000/- more over and above that awarded by the learned Tribunal to Ramu Dass and Ramesh Panchhi (appellants in FAO No.248 of 1993).

(S.S. Saron)
Judge

11.3.2015
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