IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 3022 of 2003 (O/M)
Date of decision : 2.7.2015

Priya (Minor) ..... Appellant

Versus

Jaspal Singh and others ...... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Rajbir Singh, Advocate, for the appellant.
None for respondents No. 1 and 2.
Mr. R.C. Gupta, Advocate, for,
Mr. D.K. Dogra, Advocate, for respondent No. 3.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ? Yes.
2. To be referred to the Reporter or not. Yes.
3. Whether the judgment should be reported in the digest ? Yes.

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KULDIP SINGH, J. (ORAL)

Claimant has filed this appeal against the award dated 6.3.2003, passed by the Motor Accident Claims Tribunal, Sangrur (in short 'the Tribunal'), vide which a compensation of Rs. 3,60,000/- was awarded in favour of the appellant on account of death of her mother Kamlesh Rani in a motor vehicle accident.

The brief facts relevant for the disposal of the present case are that Kamlesh Rani was working as a Social Studies teacher in Government Middle School, Village Kalaudi, Tehsil and District Sangrur. She was a permanent employee of Punjab Education department. Her monthly salary was Rs. 8,830/-. She was 36 years of age at the time of her death. The present appellant is minor and is under the guardianship of her father. On 24.8.1999, at about 7:40 AM, Kamlesh Rani left her house on scooter bearing registration No. PB-13-A-0070 to attend her duty. When she reached near Aggarwal Marble Stone on Patiala Road, Sangrur, one tanker bearing registration No. PB-11-G-8955 came from the opposite direction being driven rashly and hit the scooter of Kamlesh Rani, as a result of which, she died on the spot. FIR No. 212 dated 24.8.1999 was registered at Police Station Sadar Sangrur. At the time of accident, the offending truck was being driven by Jaspal Singh (respondent No. 1).

Suffice to say that the owner and driver claimed that a false FIR was registered. However, it was stated that the tanker was insured with respondent No. 3-insurance company. The respondent-insurance company also took the usual pleas.

I have heard learned counsel for the appellant, learned counsel for respondent No. 3-insurance company and have also carefully gone through the file.

The learned counsel for the appellant has contended that in this case, as per the salary certificate (Ex.P1), the monthly salary of the deceased was Rs. 8,830/-. The General Provident Fund of Rs. 1,630/- was deducted from the said salary and the monthly carry home salary was Rs. 7,200/-. The Tribunal erred in considering only the carry home salary as income of the deceased.

I agree with the contention of the learned counsel for the appellant. The deductions made towards GPF and GIS are also to be added towards income of the deceased. Therefore, the monthly income of the deceased is to be taken as Rs. 8,830/-. No future prospects were allowed. Since the deceased was 36 years of age, 50% of the income is to be added towards future prospects. The income of the deceased comes to Rs. 13,245/-, from which 1/3rd are deducted as personal expenses i.e. Rs. 4,415/-. Thus, the dependency of the claimant comes to Rs. 8,830/-. Keeping in view the age of the deceased, the multiplier of '15' is to be applied. In this way, the total amount of compensation comes to Rs. 8,830 x 12 x 15 = Rs. 15,89,400/-.

Here, I would like to add that the Tribunal has grossly erred in applying the split up multiplier observing that the claimant is 6 years of age and that she is to marry. Therefore, the split multiplier of '10' was applied. The Tribunal has also erred in taking the dependency of the claimant to be Rs. 1,500/- upto the age of 16 years and Rs. 3,000/- upto the age of 21 years. The multiplier as per the age of the claimant is to be applied and not as per the age of the deceased. Even as per the age of the claimant, much higher multiplier was to be applied. Rs. 1,00,000/- for love and affection and Rs. 25,000/- towards funeral expenses are also allowed. The total amount of compensation comes to Rs. 17,14,400/- (Rs. 15,89,400 + 1,00,000 + Rs. 25,000). In terms of the award, the amount shall be first paid by the insurance company, which shall have the recovery rights to recover the amount from the insured. It also comes out that claim petition was filed in the year 1999 when the appellant was only 6 years of age. Now, 16 years have elapsed and she might have turned 22 years. As such, the enhanced amount of compensation shall be paid to the appellant with interest @ 7.5% per annum from the date of filing of the claim petition till its realization.

Accordingly, the present appeal is allowed.

(KULDIP SINGH)
JUDGE

2.7.2015
sjks