IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.955 of 1995 (O&M)
Date of decision: 06.05.2015

Saroj Chadha and others ….Appellants

Versus

Darshan Singh and others ….Respondents

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

Present: Mr. P.S. Ahluwalia, Advocate
for the appellants.

Mr. Rohit Goswami, Advocate
for Mr. Vinod Chaudhari, Advocate
for respondent No.2.

K.C. PURI J. (Oral)

This is an appeal directed by the claimant-Saroj Chadha-widow, Rohit Chadha, Rahul Chadha and Vishal Chadha sons of Bishambar Chadha, claiming compensation on account of death of Bishambar Chadha in a motor vehicular accident.

The learned Tribunal after adjudication accepted the claim petition and allowed a sum of Rs.2,40,000/-. The income of the deceased was taken as Rs.4,500/- per month as per income-tax returns. The dependency was taken as Rs.2,000/- per month and the multiplier of 10 was applied.

Learned counsel for the appellants has submitted that the deceased was 42 years of age according to the finding given by the learned Tribunal. As per **"Smt. Sarla Verma and others vs. Delhi Transport Corporation and another"** reported in **2009(3) R.C.R. (Civil) 77**, at the age of 42 years the multiplier applicable is 14. It is further submitted that in view of authority **"Rajesh and others Vs. Rajbir Singh and others"** reported in **2013(3) R.C.R. (Civil) 170,** future prospects should have also been allowed to the extent of 30%. It is further submitted that the dependency should have been calculated by deducting 1/3rd in respect of personal expenses. It is also submitted that no amount in respect of consortium, loss of love and affection have been allowed.

On the other hand, learned counsel for the insurance company has supported the judgment of the Tribunal and regarding future prospects, it is submitted that the 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.C-8058/2014**.

I have considered the submissions made by learned counsel for both the parties and have gone through the paperbook and record with their able assistance.

So far as the income of the deceased is concerned, none of the parties have disputed the same. So, the income of the deceased is taken as Rs.4,500/- per month.

The other point for consideration is whether future prospects should be allowed. The deceased was 42 years of age and as per Rajesh and others case (supra) future prospects has to be allowed in respect of fixed salaried person or self-employed person. There is nothing on the file that operation of the said judgment has been stayed by the Hon'ble Apex Court. Otherwise also this aspect has been considered by this Court in ***"Balbir Kaur and others Vs. State of Haryana and others"*** in **FAO No.3903 of 2012,** decided on 15.01.2014*,* vide which Rajesh and others case (supra) has been approved and it is held that the future prospects has to be taken into account. So, by adding 30% in respect of future prospects the amount comes to Rs.5,850/-. There are three claimants in number. So, the dependency by deducting 1/3rd in respect of personal expenses comes to Rs.3,900/- per month and the yearly dependency comes to Rs.46,800/- (3,900 x 12). The deceased was 42 years of age and as per Sarla Verma and others case (supra), the multiplier in the age group of 41-45 is 14. So, by applying that multiplier the amount of compensation comes to Rs.6,55,200/-. The amount in respect of consortium, loss of love and affection, expenses on last rites and transportation has to be allowed by keeping in view the price index prevailing in the year 1992-93. So, the claimants are held entitled to claim Rs.10,000/- in respect of expenses on last rites and transportation. Another sum of Rs.25,000/- stands allowed in respect of consortium and another sum of Rs.25,000/- stands allowed in respect of loss of love and affection. So, the claimants are held entitled to claim Rs.7,15,200/- in all. The enhanced amount shall carry interest @ 7.5% per annum from the date of application till payment. The liability to pay the amount shall be same as ordered by the Tribunal.

Appeal stands partly accepted to the extent mentioned above.

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

(K.C. PURI)
JUDGE

06.05.2015
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