IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.719 of 2003.
Date of decision: 27.05.2015

Parveeta Jain ….Appellant

Versus

Mutlib and others ….Respondents

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

Present: Ms Neha Bandral, Advocate
for Mr. Ashit Malik, Advocate
for the appellant.

Mr. Gopal Mittal, Advocate
for respondent No.3.

K.C. PURI J. (Oral)

This is an appeal directed by mother of deceased-Nishank Jain, aged 23 years claiming compensation on account of death of Nishank Jain in a motor vehicular accident.

The learned Tribunal after adjudication has partly accepted the claim petition and allowed a sum of Rs.2,98,000/- to the mother of deceased. The income of the deceased was taken as Rs.2,400/- or Rs.2,500/- per month. 1/3rd amount was deducted in respect of personal expenses and the dependency was taken as Rs.1,600/- per month. The widow mother was aged 44 years, so the multiplier of 15 was applied. The amount of compensation was calculated as Rs.2,88,000/-. Another sum of Rs.10,000/- was allowed in respect of funeral expenses and loss of estate. So, in this manner, Rs.2,98,000/- was allowed along with interest @ 9% per annum from the date of application till payment.

Parveeta Jain-mother of the deceased has directed this appeal for enhancement of compensation.

Learned counsel for the appellant has submitted that proved income of the deceased was Rs.5,500/- per month. It is submitted that the employer record was produced and as such, the income should have been taken as Rs.5,500/- per month.

I have considered the said submission made by learned counsel appearing for the appellant, but do not find any force in that submission.

The learned Tribunal observed that corresponding record has not been produced, so the income of the deceased is taken as Rs.2,500/- per month.

Learned counsel appearing for the appellant has further submitted that future prospects should have been considered by the Tribunal.

So, in view of authority **"Rajesh and others Vs. Rajbir Singh and others"** reported in **2013(3) R.C.R. (Civil) 170**, the future prospects has to be considered by keeping in view the age of mother of the deceased. So, the income of deceased is taken as Rs.3,250/- per month by adding 30% in respect of future prospects.

In this case, the claimant is a mother of deceased and as such, ½ has to be deducted in respect of personal expenses in view of authority **"Smt. Sarla Verma and others vs. Delhi Transport Corporation and another"** reported in **2009(3) R.C.R. (Civil) 77**. So, the dependency comes to Rs.1,625/- and the yearly dependency comes to Rs.19,500/- (Rs.1,625 x 12).

The next contention raised by learned counsel appearing for the appellant is that the multiplier should have been applied according to the age of deceased and to fortify her argument she has relied upon the authorities **"M. Mansoor and another vs United India Insurance Co. Ltd."** reported in **2013 ACJ 2849** and **"Amrit Bhanu Shali and others vs National Insurance Co. Ltd. and others"** reported in **2012 ACJ 2002.**

However, that contention has been disputed by learned counsel for the insurance company and has relied upon the authority **"New India Assurance Company Ltd. Vs Shanti Pathak (Smt.) and others"** reported in **(2007) 10 SCC 1**. It is submitted by learned counsel for the insurance company that Three Judges Bench of Hon'ble Apex Court in the abovesaid authority has held that in case of unmarried person, the age of the claimant/parents should be considered for applying the multiplier.

The authorities i.e. M. Mansoor and another and Amrit Bhanu Shali and others cases (supra) relied upon by learned counsel appearing for the appellant is of Two Judges Bench. So, the authority New India Assurance Company Limited case (supra) would prevail. The argument advanced by learned counsel for the insurance company carries weight and has to be accepted.

Three Judges Bench of Hon'ble Apex Court in "New India Assurance Company Ltd's case (supra) has held that the age of the parents especially the mother is relevant for applying the multiplier in case of death of unmarried person. The age of the mother was 44 years and as such, the multiplier applicable at this age is 14. So, by applying that multiplier the amount of compensation has been calculated as Rs.2,73,000/-. The learned Tribunal has allowed a sum of Rs.10,000/- in respect of funeral expenses and loss of estate, that amount is upheld. The claimant being mother is also held entitled to claim Rs.25,000/- more on account of loss of love and affection and in this manner, the claimant-mother is entitled to claim Rs.3,08,000/-. The liability to pay the enhanced amount shall be same as ordered by learned Tribunal. The enhanced amount shall also carry interest @ 7.5% per annum from the date of application till payment.

Appeal stands disposed of, accordingly.

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

(K.C. PURI)
27.05.2015 **JUDGE**
yakub