IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO NO. 1903 OF 1999 (O&M)
DECIDED ON : 01.07.2015

B. M. Verma and another
...Appellants

versus

Nan-jundappa and others
...Respondents

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

Present : Mr. Sanjiv Kodan, Advocate,
for the appellants.

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

K. C. PURI, J. (ORAL)

This is an appeal directed by the B.M.Verma-father and Saroj Bala Verma-mother of deceased Vineet Mohan, for enhancement of compensation.

Briefly stated, the parents of deceased Vineet Mohan filed claim petition under Section 166 of the Motor Vehicles Act (in short “the Act”), seeking compensation on account of death of their son in a motor vehicular accident. It was alleged in the claim petition that deceased Vineet Mohan was pillion rider on motorcycle No. DL-4SE-7344 which was being driven by his friend Vishal Goswami. They were coming from Madras to Banglore. One maxi cab bearing No. KA-03-5753 came from the opposite side rashly and negligently and struck against the motorcycle of the deceased, which resulted into death of the deceased.

Upon put to notice, respondents No.1 and 2 did not appear before the Tribunal and as such, they were proceeded ex parte.

Respondent No.3-Insurance Company resisted the claim petition and filed written statement taking preliminary objections that the driver was not holding a valid and effective driving license.

The Tribunal, after adjudication, partly accepted the claim petition and allowed a sum of ₹3,95,000/- as compensation.

Feeling dissatisfied with the Award dated 01.12.1998 passed by Shri S. S. Lamba, Motor Accident Claims Tribunal, Chandigarh, both the claimants have preferred the instant appeal for enhancement of compensation.

Learned counsel for the appellants has submitted that the deceased was a student of engineering. His colleagues were getting the salary of ₹7700/- per month. So, the income of deceased taken by the Tribunal as ₹6000/- per month, is on lower side.

Learned counsel for the appellants has further submitted that the multiplier of 10 has been applied by the Tribunal, which is also on lower side. The deceased was aged about 23 years and as such, in view of authority ***"Sarla Verma and others vs. Delhi Transport Corporation and anr." 2009 (3) RCR (Civil) 77,*** the multiplier of 18 should have been applied. It is further contended that future prospects have not been considered by the Tribunal while computing the income of deceased. It is also contended that no amount in respect of loss of love and affection has been allowed.

Learned counsel for the appellants has submitted that amount in respect of loss of love and affection should have been allowed. To support this contention, he has relied upon authorities ***"Amrit Bhanu Shali and others vs National Insurance Company Limited and others" 2012 (4) RCR (Civil) 343***; ***"Darshan Lal Oberoi and others vs. Babu Lal and others" 2014 (2) RCR (Civil) 457***; ***"Vimal Kanwar and others vs. Kishore Dan and others" 2013 (2) RCR (Civil) 945.***

On the other hand, learned counsel for the Insurance company has submitted that 3 Judges Bench of Hon'ble Apex Court in authority ***"New India Assurance Company Limited vs. Shanti Pathak and others" 2007 (3) RCR (Civil) 593***, has held that multiplier has to be applied according to the age of parents in case the deceased is a bachelor. So multiplier of 10 has been rightly applied by the Tribunal. It is further contended that amount has been rightly calculated by the Tribunal and no ground for enhancement is made out.

I have considered the submissions made by both the sides and have gone through the case file carefully.

The first point for determination in the present case is what would be the multiplier ? Whether it should be applied on the basis of age of deceased or on the basis of age of the parents of the deceased ?

No doubt in ***Darshan Lal Oberoi and others' case (supra),*** Single Bench of this court and in ***Amrit Bhanu Shali and others' case (supra),*** the Division Bench of Hon'ble Apex Court have held that the multiplier should be calculated on the basis of age of the deceased in case of a bachelor but the 3 Judges Bench of Hon'ble Apex Court in ***New India Assurance Company Limited's case (supra),*** has applied the multiplier keeping in view the age of parents of the deceased, in a case where the deceased was a bachelor. In the present case, it is not disputed that the deceased was a bachelor. He was a student of Engineering. So, while sitting in Single Bench, I am bound by the 3 Judges' Bench authority i.e ***New India Assurance Company Limited's case (supra).***

Learned counsel for the parties have admitted that claimant No.1-B.M.Verma father of deceased Vineet Mohan, while appearing as his own witness, has given his age as 51 years. So, the argument advanced by learned counsel for the appellants that future prospects should have been considered, became unavailable as the age of parents is the relevant factor in this case. In view of ***Sarla Verma and others' case (supra),*** no amount in respect of future prospects can be allowed as the father of deceased was aged 51 years.

The Tribunal has taken the income of deceased as ₹6000/- per month in the year 1995. The deceased was a student of Engineering. Mere plea that some of the colleagues of the deceased were getting salary of ₹7700/- per month, is not a ground to take the income of deceased also as ₹7700/- per month. One of the engineering student may earn salary up to ₹1,00,000/- per month or the other may get an employment only of ₹5000/- per month. So, the income of ₹6000/- per month taken by the Tribunal in the year 1995 cannot be said to be on lower side.

As per ***Sarla Verma and others' case (supra),*** the dependency of parents has to be calculated by taking one half of the income. So, the dependency of the claimants is taken as ₹3000/- per month and as such, the yearly dependency comes to ₹36,000/- (3000 x 12). The age of father of the deceased has been proved as 51 years on record. So, Saroj Bala Verma-mother of deceased must be less than 50 years. The multiplier applicable at the age group of 46-50, according to ***Sarla Verma and others' case (supra)*** is 13. So, by applying the multiplier of 13, the amount of compensation comes to ₹4,68,000/- (36000 x 13). The Tribunal has allowed a sum of ₹25,000/- in respect of transportation of dead body from Banglore. Another sum of ₹10,000/- has been allowed in respect of last rites. The said amount cannot be said to be unreasonable and as such, the same stands affirmed. Another sum of ₹30,000/- stands allowed in respect of loss of love and affection. In this manner, the claimants are held entitled to claim ₹5,33,000/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of application till its realisation. The liability to pay the amount shall remain the same as ordered by the Tribunal.

In view of the above, the appeal stands partly accepted, to the extent mentioned above.

JULY 01, 2015 **(K. C. PURI)**
shalini **JUDGE**