IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO NO. 4240 OF 2001 (O&M)
DECIDED ON : 01.05.2015

Gurmit Kaur and others
...Appellants

versus

Roshan Singh and others
...Respondents

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

Present : Mr. Ashwani Arora, Advocate,
for the appellants.

Mr. Prashant Bansal, Advocate,
for respondents No.1, 2 and 4.

Mr. Rohit Goswami, Advocate for
Mr. Vinod Chauhdri, Advocate,
for respondent No.3.

K. C. PURI, J. (ORAL)

This is an appeal directed by the claimants against the Award dated 22.08.2000 passed by Shri P. S. Virk, Motor Accident Claims Tribunal, Fatehgarh Sahib, vide which the claim petition was partly accepted and a sum of ₹2,16,000/- was allowed as compensation to the claimants.

The Tribunal has taken the income of deceased as ₹1800/- per month. The age of deceased was 45 years at the time of accident. The monthly dependency was taken as

Rs.1200/- by deducting 1/3rd in respect of personal expenses. The yearly dependency was calculated as ₹14,400/- (1200x12). The multiplier of 14 was applied. In this manner, a sum of ₹2,11,600/- (14,400 x 14) was awarded. Another sum of ₹15,000/- was awarded in respect of last rites. In this manner, a total sum of ₹2,16,600/- was awarded to the claimants.

Learned counsel for the appellants has submitted that the deceased was earning ₹5000 to 6000/- per month and he was maintaining a large family of six children and one widow. He has further submitted that the income of deceased has been taken on lower side.

I have heard learned counsel for the parties and have gone through the records of the case.

In this case the accident took place on 01.11.1995. So, the income of the deceased taken by the Tribunal as ₹1800/- per month cannot be said to be on lower side. So, the income has been rightly assessed by the deceased.

Learned counsel for the appellants has further submitted that no amount in respect of future prospects has been given. He has further submitted that the claimants are seven in number and the dependency should have been calculated by keeping in view the authority ***"Sarla Verma and others vs. Delhi Transport Corporation and anr." 2009 (3) RCR (Civil) 77***. He has further submitted that the amount under conventional head i.e loss of consortium and loss of love and affection should have been granted by the Tribunal in view of authority ***"Rajesh and others v. Rajbir Singh and others" 2012 (2) Apex Court Judgments 245 (SC).***

On the other hand, learned counsel for the respondent- Insurance Company has supported the judgment passed by the Tribunal. It is further submitted that the amount in respect of loss of consortium and love and affection has to be granted keeping in view the price index of the year 1995. It is further submitted that the matter regarding future prospects is pending before the larger Bench as conveyed in authority ***"National Insurance Company vs. Pushpa and others" SLP No. CC8058 of 2014.***

I have given my thoughtful consideration to the rival submissions made by both the sides and have gone through the records of case.

The income of the deceased has been rightly taken as ₹1800/- per month, as discussed above. The deceased was 45 years of age and as such, future prospects has to be taken into account in view of ***Rajesh and others' case (supra).*** Mere fact that case is pending before the larger Bench is not a ground to disallow the future prospects, more so, when it is a welfare legislation. This aspect of the case has already been discussed by this court in ***FAO No. 3903 of 2012 decided on 15.01.2014 titled as "Balbir Kaur and others vs. State of Haryana and others".*** It has been held by this court in that case that future prospects in respect of self employed person and fixed salaried person should also be given. So, in these circumstances, 30% stands added in the income of deceased which comes to ₹540/-. So by adding the said amount, the income of deceased has to be taken as ₹2340/-. In this case, the claimants are seven in number, so keeping in view the authority ***Sarla Verma and others' case (supra),*** the dependency has to be calculated by deducting 1/5th in respect of personal expenses. So, after deducting 1/5th in respect of personal expenses, the dependency comes to ₹1872/-. The yearly dependency comes to ₹22,464/- (1872 x 12). According to ***Sarla Verma and others' case (supra),*** the multiplier applicable at the age of 45 is 14. So, by applying that multiplier, the amount comes to ₹3,14,496/-. The Tribunal has allowed a sum of ₹15,000/- in respect of last rites, transportation etc. The said amount stands maintained. The amount of consortium has to be assessed keeping in view the price index of the year 1995. So, a sum of ₹25,000/- stands allowed in respect of loss of consortium. So, in this manner, the amount of compensation comes to ₹3,54,496/- say ₹3,55,000/-. The said amount shall carry interest @ 7.5% per annum from the date of filing the application till its payment. The amount already paid shall be adjusted towards the said amount. The liability to pay the amount shall remain the same as ordered by the Tribunal.

Learned counsel for the appellants has submitted that all the claimants have become major. So, the enhanced amount shall be paid to the claimants. Out of the enhanced amount, a sum of ₹68,400/- along with interest shall be paid to the widow and the remaining amount shall be shared equally by all the remaining claimants.

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