206 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 1850 of 2000 (O&M)
Decided on : 15.05.2015

Tilak Raj Sharma and Another

...Appellants

Versus

Rajinder @ Ram Avtar and Others

...Respondents

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

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

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

Mr. Aseem Aggarwal, Advocate
for respondent No. 4.

K. C. PURI, J. (ORAL)

This is an appeal directed by the claimants-appellants, namely, Tilak Raj Sharma and Smt. Krishan Rani, parents of the deceased-Rajiv Kumar Sharma, against the award dated 04.12.1999, passed by Shri V.S. Malik, the then Motor Accident Claims Tribunal, Gurgaon (for short 'the Tribunal').

The case of the appellants is that Rajiv Kumar Sharma died in a motor vehicular accident on 23.11.1995. The learned Tribunal after appraisal of the evidence, allowed a sum of ₹ 1,25,000/- in lumpsum in respect of the death of deceased-Rajiv Kumar Sharma, aged 25 years, in a motor vehicular accident.

Learned counsel for the appellants has submitted that income of the deceased was ₹ 3,340/- per month. The learned Tribunal has not calculated the amount in accordance with the rules. Future prospects should have been considered while granting the amount of compensation. It is further submitted that nothing has been awarded in respect of loss of love and affection and expenses on last rites. It is further submitted that deceased was looking after his old aged parents and blind brother. The prayer has been made for enhancement of compensation.

Learned counsel for respondent No. 4-Insurance Company has supported the award passed by the Tribunal and has submitted that amount granted by the Tribunal is adequate.

I have heard the submissions made by learned counsel for the parties and have gone through the record of the case carefully.

The appellants-claimants have pleaded that deceased was working as Steno-typist with M/s. Brite Brother Ltd., 4, Rozka Meo. Industrial Area, Sohna, Distt. Gurgaon and his monthly salary was ₹ 3,340/-. However, no documentary evidence has been placed on record in this regard. It has come on the record that deceased was Matriculate. So, in these circumstances, income of the deceased taken as ₹ 2,000/- per month in the year 1995 cannot be said to be on lower side.

So far as the amount of future prospects is concerned, that has to be considered keeping in view the age of mother. The age of the mother is not clear from the record, but it has come on record that deceased was elder son, so, age of the mother can be taken between 46 to 50 years. So, 30% is added in respect of future prospects and in this manner, monthly income comes to ₹ 2,600/- by adding 30% in respect of future prospects. The loss of dependency is to be calculated by deducting one-half in respect of personal expenses. So, the amount of dependency comes to ₹ 1,300/- per month. The yearly dependency comes to ₹ 15,600/-. As per authority ***Sarla Verma and Others Versus Delhi Transport Corporation and Another" 2009 (3) RCR (Civil) 77,*** the multiplier applicable in the age group of 46 to 50 years is 13. So, by applying that multiplier, amount of compensation comes to ₹ 2,02,800/-. Another sum of ₹ 10,000/- stands allowed in respect of last rites and transportation etc. The appellants-claimants are also held entitled to claim ₹ 30,000/- in respect of loss of love and affection. The above said amount has been given keeping in view the price index prevailing in the year 1995. So, in this manner, the appellants are held entitled to claim ₹ 2,42,800/- say ₹ 2,43,000/-. The enhanced amount shall carry interest at the rate of 7.5 per cent per annum from the date of application till payment. The liability to pay the amount alongwith interest is that of Insurance Company.

The appeal stands disposed of.

May 15, 2015 **(K.C. PURI)**
'dk kamra' **JUDGE**