IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1960 of 2007
DATE OF DECISION: 24.12.2015

Smt.Sumitra Devi and another

…Appellants

versus

Parvesh Kumar Soni and others

…Respondents

FAO No.1961 of 2007

Ram Sringar Roy

…Appellant

versus

Parvesh Kumar Soni and others

…Respondents

CORAM:- HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr.Sandeep Kotla, Advocate for the appellants.
Mr.Aseem Aggarwal, Advocate for the Insurance Company.

RAMENDRA JAIN, J.

The subject matter of challenge in both the above FAOs is the award dated 13.3.2007 passed by the Motor Accident Claims Tribunal, Hisar. In FAO No.1960 of 2007, enhancement of compensation amount for the death of Parveen has been sought, whereas, in the connected appeal being FAO No.1961 of 2007, a prayer is made to enhance the compensation amount regarding damage caused to the motor cycle.

Around 4.30 p.m. on 9.1.2006, the motor cyclist Parveen was hit by the offending vehicle No.HR-26Y-8025 when he applied brakes to turn towards Gate No.3. As a result thereof, he fell down and succumbed to his injuries on 14.1.2006. The offending vehicle was insured with respondent No.3.

The Tribunal took into consideration the following factors:

<u>In the case of death of Parveen:</u>

(a) Earning of ₹4,000/- per month after contributing 50% to the parents;

(b) The multiplier of 10 was applied keeping in view the age of parents;

(c) ₹41,728/- for treatment, purchase of medicines etc.

(d) ₹10,000/- for pain and suffering;

(e) ₹5,000/- for the funeral expenses

<u>In the case of damage to the motor-cycle:</u>

₹19,136/- for the damage of the vehicle.

On the basis of aforesaid factors, the Tribunal partly allowed the claim petition awarding compensation amount of ₹5,36,728/- and ₹19,136/-, respectively, along with interest at the rate of 6% per annum from the date of filing the claim petition till its actual realization.

The sum and substance of argument of Mr.Kotla, on behalf of the appellants, runs thus: (i) The monthly income of the deceased was assessed on lower side without considering the fact that he had passed the secondary examination and was preparing for IIT; (ii) The multiplier of 10 instead of 17 was wrongly applied keeping in view the age of deceased as 20 years (iii) Although the compensation under various heads was awarded, but the same was on quite lower side, whereas, no compensation was awarded under the heads of love and affection, future prospects and transportation etc.; and (iv) the compensation awarded for the damage of the motor cycle is on lower side.

On the other hand, learned counsel for the Insurance Company took more or less similar stand as taken before the Tribunal.

After hearing learned counsel for the parties, I find that the arguments Nos.(i) and (iv) need no interference, however, the arguments Nos.(ii) and (iii) require some interference by this Court. Let the controversy involved be discussed thoroughly.

So far as arguments Nos.(i) and (iv) are concerned, this Court finds that the learned Tribunal has rightly assessed the income of the deceased at ₹8,000/- per month keeping in view the marks secured by him in the 12th class in 2005 and also the fact that that the deceased was a good student, but not a very bright student and whether he would have been in a position to qualify the exams of AIEEE or JEE, that could not be answered. Since the deceased was a bachelor, so the contribution of 50% towards the parents was a logical conclusion based on well settled proposition of law and thus cannot be said to be on higher side. In this manner, the dependency assessed at ₹4,000/- per month for calculating the compensation amount needs no interference.

The second argument qua enhancement of compensation for the damage of motor cycle also does not hold water, because the learned Tribunal placing reliance upon the report Ex.P11 prepared by Amit Chug, PW3, granted the total amount mentioned in the same. No more compensation amount could have been awarded by the learned Tribunal beyond got proved by the claimant himself for the damage of his motor cycle.

Coming to argument No.(ii), this Court finds that the Tribunal has wrongly applied the multiplier of 10 by considering the age of parents. In a plethora of judgments rendered by the Hon'ble Apex Court, view has been taken that in case of death in motor accident cases, the age of the deceased has to be taken into consideration for multiplication purpose and not the age of the parents. In the case in hand, the deceased was 20 years of age. Be that as it may. The multiplier of 17 is required to be applied. Thus, after applying the same, the compensation amount comes as depicted in the running para of the bottom of judgment.

The view taken by the Tribunal that the claimants are entitled to compensation for pain and suffering is erroneous, inasmuch as, Parveen had died. In case he would have survived, then only it was he, who would have been entitled to compensation under this Head. Thus, the compensation amount awarded under this Head is wrong and the claimants are held not entitled for compensation under this head.

Now coming to the point that whether the claimants are entitled to any compensation under the head of love and affection. No doubt, they have lost their adolescent son having the age of 20 years. For that purpose, this Court thinks appropriate to consider the same under the head of “future prospects”.

The claimants have claimed that the deceased was taken to Bihar for his last rites, which is a far way place from the place of unfortunate incident. This factum is not denied. The learned Tribunal did not award any compensation amount under this head. After taking into consideration the totality of the facts and circumstances, this Court deems fit to award compensation amount of ₹15,000/- for the transportation charges.

Now the crucial question before this Court is that as to whether the claimants are entitled to get the benefit of compensation amount under the head of “future prospects”. The answer to this question is given in <u>Munna Lal Jain and another vs. Vipin Kumar Sharma and others</u> 2015(6) SCC 347. In the aforesaid judgment, it has been categorically held that in case the deceased is below the age of 40 years, there should be addition of 50% to the actual income of the deceased, while computing future prospects. In the case in hand, the deceased was 20 years of age. His monthly income was assessed by the learned Tribunal at ₹8,000/-. In this manner, the parents are entitled to compensation for the loss of dependency under the head of “future prospectus” as under:

Calculation	Total
₹8,000/- (monthly income) add [50% of ₹8,000/- (future prospects)	₹12,000/-
50% of ₹12,000/- (deductions) towards personal expenses	₹6,000/-
₹6,000 multiplied by 12 annual income and further multiplied by 17	₹12,24,000/-

No other point has been urged.

In view of the aforesaid discussion, the FAO No.1960 of 2007 is partly allowed. The claimants are awarded compensation amount of ₹12,37,000/- (₹12,24,000/-+ ₹15,000/-) from which compensation already awarded by the learned Tribunal shall be deductable, whereas, FAO No.1961 of 2007 is dismissed. The claimants are entitled to interest at the rate of 6% per annum granted by the learned Tribunal on the enhanced amount of compensation from the date of filing the claim petition. The Tribunal shall calculate the exact compensation amount after deducting the amount along with interest for the pain and suffering.

December 24,2015 (Ramendra Jain)
KD Judge