IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No.22 of 2007
Date of Decision: 11.05.2015

Krishna Devi and others

..... APPELLANTS

VERSUS

Satpal and others

..... RESPONDENTS

PRESENT: - Mr. J.S. Chatrath, Advocate
for the appellants.

Mr.Paul S. Saini, Advocate
for respondent No.3.

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

1) Whether Reporters of the local papers 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?

SHEKHER DHAWAN, J.

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Ambala (hereinafter referred to as 'The Tribunal') dated 29.10.2005 whereby 'The Tribunal' awarded compensation of ₹2,71,960/- on account of death of

Parkash Chand.

The relevant facts that motor vehicle accident took place on 08.09.2003 involving Car No. CH01H-7959 which was being driven by respondent No.1 and that Car hit against Parkash Chand. Claimant Parkash Chand sustained injuries and was taken to hospital at Ambala and then to PGI, Chandigarh where he succumbed to the injuries. The matter was reported to the police. The claimants claimed compensation to the tune of ₹10 lacs.

The respondents contested the claim petition on all accounts.

Mr. J.S. Chatrath, learned counsel for the appellants-claimants took the plea that 'The Tribunal' has not awarded 'just compensation'. Keeping in view the fact that the deceased was of the age of 56 years, his monthly income was proved to be ₹4420/- vide Salary Certificate Ex.P-1. 'The Tribunal' has not applied the correct multiplier as per law laid down by Hon'ble Supreme Court in case of **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another**, 2009(3) RCR 77. Even adequate compensation has not been awarded on account of funeral expenses, love and affection and loss of consortium as one of the claimants is widow. Learned counsel for the appellants also disputed that self dependency has been taken to be on the higher side i.e.

1/3rd of the income whereas it should be 1/4th as the claimants are six in number.

While arguing on this point, learned counsel for respondent No.3 took the plea that 'The Tribunal' has awarded 'just compensation' because the claimants have been compensated on account of loss of earnings. Multiplier was applied keeping in view the age of deceased to be 56 years. Self dependency has also been rightly taken to be 1/3rd as out of six claimants, claimants No.2 to 4 are major sons and they cannot be considered to be dependent upon the earnings of the deceased. So, the appeal is without any merit and be dismissed.

Having considered the rival contentions, this Court is of the considered view that 'The Tribunal' has awarded compensation but just compensation has not been awarded because 'The Tribunal' has even ignored the income of the deceased which is otherwise proved as per salary certificate Ex.R-1 to be ₹4420/- per month. There was no contrary evidence to record the findings that 'The Tribunal' fell in error while deducting GPF and other statutory deductions while calculating the income of the deceased. The law on the point is settled that gross income of the deceased is to be taken for determining amount of compensation. That way the income of the deceased in this case is to be taken ₹4420/- per month. 'The Tribunal' also fell in error while applying multiplier of 8 at the age of 56 years. As per law laid down by Hon'ble Supreme Court in case of **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another** (supra), multiplier of 9 is to be applied at the age of 56 years.

However, 'The Tribunal' has rightly taken the deduction on account of self dependency to be 1/3rd because there are three claimants practically, who are widow and two daughters. Remaining were claimants i.e. three major sons (claimants No.2 to 4) and they cannot be said to be dependent upon the earnings of Parkash Chand. So, the self dependency has rightly been taken by 'The Tribunal'.

'The Tribunal' has also not awarded adequate amount on account of loss of consortium, funeral expenses and loss of love and affection.

In view of the above, the amount of compensation is being reassessed as under:

1	Annual income of the deceased	₹53,040/-
2	Less 1/3rd on account of self dependency (₹53,040/- -₹17,680/-)	₹35,360/-
3	Multiplier 9 (₹35,360/-x9)	₹3,18,240/-
4	Loss of consortium	₹1,00,000/-
5	Funeral Expenses	₹25,000/-
6	Love and affection	₹1,00,000/-
7	Total Less already awarded	₹5,43,240/- ₹2,71,960/-
8	Enhanced compensation	₹2,71,280/-

The enhanced compensation shall be payable from the date of claim petition. The enhanced amount shall be payable within 45 days from today failing which the appellants shall also be entitled to receive interest @ 7.5% per annum from the date of claim petition till actual payment.

However, the remaining conditions regarding payment and disbursal of amount shall remain unaltered.

The appeal is accordingly partly allowed.

(SHEKHER DHAWAN)
JUDGE

May 11, 2015
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