IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4368 of 2007 (O&M)
Date of decision: 06.04.2015

Ram Piyari and another

….Appellants

Versus

CTU and others

….Respondents

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

Present: Mr. Ajit Sihag, Advocate
for the appellants.

Mr. Deepak Sharma, Advocate
for respondents No.1 to 3.

Mr. R.C. Kapoor, Advocate
for respondent No.5.

K.C. PURI J. (Oral)

Respondent No.4, not served. Since, insurance company has been held liable. So, service of respondent No.4-driver, stands dispensed with.

This is an appeal directed by the parents against the award dated 08.06.2007, passed by Sh. R.K. Bishnoi, Motor Accident Claims Tribunal, Bhiwani, for enhancement of compensation. The age of the deceased was 22 years. The income of the deceased has been taken as Rs.2100/- per month and dependency has been taken by deducting 1/3rd in respect of personal expenses and as such, the dependency has been calculated as Rs.1400/- per month. The yearly dependency comes to Rs.16,800/- (1400 x 12). The age of the mother was assessed as 42 years, whereas the age of Dharmvir, father of the deceased, has been taken as 52 years. The multiplier of 11 has been applied and as such, the amount of compensation was calculated as Rs.1,84,800/-. Rs.5,000/- has been allowed in respect of last rites. So, the total amount of compensation comes to Rs.1,89,800/-.

Learned counsel for the appellant has submitted that the income of the deceased has been proved on record is Rs.6,000/- per month. The learned Tribunal has taken the income of Rs.2100 on the lower side. No amount in respect of love and affection has been allowed. The amount in respect of last rites is also on the lower side. It is further submitted that no amount in respect of future prospects has been allowed by the Tribunal. It is further contended that the multiplier at the age of the deceased should have been applied.

In reply to the above-said contentions, learned counsel for the respondents has supported the judgment of the learned Tribunal. It is submitted that income has been rightly assessed by the Tribunal. No register has been produced before the Tribunal and no Salary Certificate has been verified by anyone. No qualification record was produced that he was working as Accountant. No income-tax record has been produced before the Tribunal. It is further contended that the claimants are not entitled for any future prospects. The deceased was not a permanent employee and even in the grounds of appeal, no amount has been claimed in respect of future prospects. It is further submitted that in case of parents the deductions in respect of personal expenses of the deceased should be ½.

I have considered the submissions made by learned counsel for both the parties and have gone through the case file and record carefully.

The first and foremost point for determination is whether the income of Rs.2100/- per month assessed by the Tribunal call for any interference. The income has to be assessed by keeping in view the price index of 2005. The Tribunal has not taken the income of the deceased as Rs.6,000/- per month and the records pertaining to income-tax has not been produced. The income of the deceased has been taken as that of unskilled labourer as Rs.2100/- per month. So far as the finding of the Tribunal to the effect that record produced by the claimants regarding employment of the deceased as Accountant cannot be accepted, does not call for any interference. However, his income of Rs.2100/- per month in the year 2005 is on the lower side. His income should have been taken as Rs.3,000/- per month. So, his income is taken as Rs.3,000/-.

The next contention raised by learned counsel for the appellant is that future prospects should have been taken into account. The said contention carries weight and has to be accepted in view of the authority ***"Rajesh and others vs. Rajbir Singh and others"*** reported in **2013(3) R.C.R. (Civil) 170**. Even, the Hon'ble Apex Court in ***"Smt. Neeta W/o Kallappa Kadolkar and others vs. The Divisional Manager, MSRTC, Kolhapur"***, reported in ***2015 (1) R.C.R. (Civil) 625,*** and in ***"Kanhsingh and another vs. Tukaram and others"*** reported in ***2015 (1) Law Herald 220,*** proved the authority Rajesh and others case (supra), regarding future prospects in respect of self-employed person and salaried person. So, the income is taken as Rs.4500/- per month by adding 50% in respect of future prospects. The contention raised by learned counsel for the insurance company that the matter regarding consideration of future prospects has been referred to Larger Bench in "National Insurance Company Limited vs. Pushpa and others" reported in SLP-CC 8058/2014, is concerned that matter has been dealt with by this Court in authority ***"Balbir Kaur and others Vs. State of Haryana and others"*** in **FAO No.3903 of 2012** decided on 15.01.2014, has also approved the Rajesh and others case (supra).

The next contention raised by the parties is that what should be the deduction in respect of personal expenses. Though, the learned Tribunal has deducted 1/3rd in respect of personal expenses, but since the claimants are parents, so in view of the authority ***"Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another"*** reported in **2009(3) R.C.R. (Civil) 77**, the deduction should be to the extent of ½. So, the dependency of the claimants comes to Rs.2250/- per month and the yearly dependency comes to Rs.27,000/- (2250 x 12).

The other contention raised by the learned counsel for the parties is regarding the multiplier, whether it should be in respect of the age of the deceased or in respect of the age of the parents. The Hon'ble Apex Court in authority ***"Oriental Insurance Company Limited Vs. Syed Ibrahim and others"***, reported in **2007 ACJ 2816**, held that the age of the parents should be taken into account while applying the multiplier in respect of death of a bachelor. The age of the mother was 42 years and as such, the multiplier applicable at this age is 14. So, by applying the multiplier of 14, the claimants are held entitled to claim Rs.3,78,000/- (27,000 x 14). Another sum of Rs.15,000/- stands allowed in respect of last rites, funeral expenses, transportation, etc. The claimants are also held entitled to claim Rs.50,000/- in respect of loss of love and affection. So, in this manner, the claimants are held entitled to claim Rs.4,43,000/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of application till payment. The liability to pay the amount shall be same as ordered by the learned Tribunal.

Appeal stands disposed of, accordingly.

A copy of this order be sent to the Tribunal for compliance.

(K.C. PURI)
JUDGE

06.04.2015
yakub