IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO NO. 3510 OF 2006 (O&M)
DECIDED ON : 10.07.2015

Gurdev Kaur and others
...Appellants

versus

Raghbir Singh and others
...Respondents

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

Present : Mr. Neeraj Khanna, Advocate,
for the appellants.

Ms. Vandana Malhotra, Advocate,
for respondent No.3.

K. C. PURI, J. (ORAL)

The widow and minor children of deceased Madan Lal have directed this appeal against the Award dated 27.03.2006 passed by Shri Jasbir Singh Kundu, Motor Accident Claims Tribunal, Fast Track Court, Ambala.

Briefly stated, on 24.01.2005 Madan Lal died in a road accident. The claimants filed claim petition claiming compensation to the tune of ₹20 lacs.

The Tribunal, after adjudication, partly accepted the claim petition and allowed a sum of ₹3,80,000/- as compensation.

The income of deceased has been taken as ₹3000/- per month. The dependency has been taken as ₹2000/- per month after deducting 1/3rd in respect of personal expenses. The yearly dependency has been taken as ₹24,000/-. The multiplier of 15 has been applied by the Tribunal as the age of deceased was taken as 40 years. Another sum of ₹20,000/- has been allowed in respect of expenses on last rites etc. In this manner, a total sum of ₹3,80,000/- has been allowed as compensation to the claimants.

The present appeal has been filed by the claimants for enhancement of compensation.

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

The Insurance Company was held liable jointly and severally and as such, at the request of learned counsel for the parties, service of respondent No.2 stands dispensed with.

Learned counsel for the appellants has submitted that the income of deceased as ₹3000/- per month is on lower side as the deceased used to purchase standing trees from the fields of land owners and further used to sell them after cutting and removing and as such, as a contractor he was earning ₹5000/- per month. It is further contended that future prospects have not been taken into consideration and the same should be taken into account in view of authority ***"Rajesh and others v. Rajbir Singh and others" 2012 (2) Apex Court Judgments 245***

(SC) and Civil Appeal No. 4497 of 2015 decided on 15.05.2015 titled as "Munna Lal Jain and another vs Vipan Kumar Sharma and others". It is further contended that no amount in respect of consortium and loss of love and affection has been allowed. The claimants are five in number and as such, the deduction should be 1/4th in respect of personal expenses. However, it is argued that multiplier of 15 has rightly been applied as the age of deceased was 40 years.

Learned counsel for Insurance Company has supported the Award and has submitted that the occurrence took place on 24.01.2005. The deceased was neither a government employee nor was having a fixed salary and as such, future prospects cannot be taken into consideration. It is submitted that the matter regarding future prospects is pending before the larger Bench and as such, the amount in respect of future propsects cannot be allowed.

I have carefully considered the submissions made by both the sides and have gone through the records of the case.

The first point for determination in this case is whether the income of deceased has rightly been taken as ₹3000/- per month in the year 2005. The answer to that question is in positive. So, the income has been rightly taken as ₹3000/- per month in the said year.

The next question which arises in this case is whether future prospects can be allowed as the deceased was not a government servant nor a fixed salaried person. The answer to that question has been given by the Hon'ble Apex Court in authority ***Rajesh and others' case (supra)*** and ***Munna Lal Jain and another's case (supra)*** in positive and as such future prospects have to be taken into consideration while computing the amount of compensation. So by adding future prospects to the extent of 30%, income of deceased is taken as ₹3900/- per month. The claimants are six in number. So, 1/4th amount has to be deducted in respect of personal expenses. So, the dependency, after deducting 1/4th, comes to ₹2925/-. The yearly dependency comes to ₹35,100/-. The multiplier of 15 has been applied by the Tribunal which has not been disputed by either of the parties. So, by applying the multiplier of 15, the amount of compensation comes to ₹5,26,500/-. The Tribunal has allowed another sum of ₹20,000/- in respect of last rites and funeral expenses. That amount stands upheld. No amount in respect of consortium and loss of love and affection has been allowed to the claimants in view of ***Rajesh and others' case (supra).*** However, the amount has to be allowed taking into consideration the price index of the year 2005 when the accident took place. So, the widow is held entitle to claim ₹50,000/- in respect of consortium. The claimants are further held entitle to claim ₹50,000/- in respect of loss of love and affection. In this manner, the claimants are held entitle to claim ₹6,46,500/-. Out of the enhanced amount, ₹1,00,000/- shall be paid to the widow and the remaining amount shall be shared by the remaining claimants in equal shares. The enhanced amount shall also carry interest @ 7.5% per annum from the date of application till its payment. The liability to pay the amount shall remain the same as ordered by the Tribunal.

JULY 10, 2015 **(K. C. PURI)**
shalini **JUDGE**