IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO NO. 924 OF 2007 (O&M)
DECIDED ON : 03.09.2015

Suman Devi and others
...Appellants

versus

Babu Ram and others
...Respondents

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

Present : Mr. Sagar Aggarwal, Advocate for
Mr. Ashit Malik, Advocate,
for the appellants.

Mr. Vinod Gupta, Advocate,
for respondents No.1 to 3.

K. C. PURI, J. (ORAL)

This is an appeal directed by the widow and sons of deceased Om Singh, against the Award dated 08.01.2007 passed by Shri P.L. Ahuja, Motor Accident Claims Tribunal, Karnala, vide which the claim petition preferred by the claimants was partly allowed and a sum of ₹6,42,000/- was allowed as compensation to the claimants on account of death of deceased Om Singh, who died in a motor vehicular accident which took place on 25.06.2005

The deceased was working as Head Constable. The Tribunal has taken the income of deceased as ₹7832/- per month. 1/3rd amount was deducted in respect of personal expenses. The monthly dependency was calculated as ₹5222/- or say ₹5225/-. The annual dependency was calculated as ₹62,700/- (5225 x 12). The deceased was 48 years of age at the time of death. The multiplier of 10 was applied by the Tribunal. In this manner, a sum of ₹6,27,000/- was allowed as compensation. Another sum of ₹10,000/- was allowed in respect of cremation and last rites. Another sum of ₹5000/- was allowed in respect of consortium. In this manner, the claimants were held entitle to claim ₹6,42,000/- as compensation.

The claimants have now directed this appeal for enhancement of compensation.

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

Learned counsel for the appellants has submitted that gross income should have been taken into account while commuting the amount of compensation, which was ₹9748/-. It is further submitted that in view of authority ***"Rajesh and others v. Rajbir Singh and others" 2012 (2) Apex Court Judgments 245 (SC),*** 30% amount has to be added in respect of future prospects. It is further submitted that the amount granted in respect of funeral expenses and consortium is on lower side. It is further contended that no amount in respect of loss of love and affection has been allowed. It is further submitted that multiplier applied by the Tribunal is also on lower side as in view of authority ***"Sarla Verma and others vs. Delhi Transport Corporation and anr." 2009 (3) RCR (Civil) 77,*** it should have been 13 as the deceased was 48 years at the time of death.

On the other hand, learned counsel for the Insurance Company has supported the Award passed by the Tribunal. It is further submitted that income tax has to be deducted while commuting the income.

The contention raised by learned counsel for the Insurance Company that income tax has to be deducted, carries weight and has to be accepted. In my view, 10% amount should have been deducted from the gross salary of the deceased as income tax. So, by deducting 10% as income tax, the income of deceased comes to ₹8773.20/-. The deceased was 48 years of age. In view of authority ***Rajesh and others' case (supra),*** 30% has to be added in respect of future prospects. So, by adding 30%, the income of deceased comes to ₹11,405.16. The claimants are three in number and as such, 1/3rd amount has to be deducted in respect of personal expenses. In this manner, the monthly dependency comes to ₹7603.44/-. The yearly dependency comes to ₹92,241.28/-. In view of authority ***"Sarla Verma and others vs. Delhi Transport Corporation and anr." 2009 (3) RCR (Civil) 77,*** the multiplier applicable at the age of deceased is 13. So by applying the said multiplier, the amount comes to ₹11,86,136.64/- say ₹11,86,200/-. Another sum of ₹15,000/- stands allowed in respect of last rites and transportation, keeping in view the price index of the year 2005 when the accident took place. Another sum of ₹40,000/- stands allowed to the widow in respect of consortium. The remaining claimants are held entitle to claim ₹40,000/- in respect of loss of love and affection. In this manner, the claimants are held entitle to claim ₹12,81,200/-. Out of the enhanced amount, 50% amount shall be paid to the widow and the remaining amount shall be share by the other claimants in equal shares. The enhanced amount shall carry interest @ 7.5% per annum from the date of application till its realisation. The enhanced amount shall be shared by all the claimants in the same ratio as ordered by the Tribunal. The liability to pay the amount shall remain the same as ordered by the Tribunal.

The appeal stands disposed of accordingly.

SEPTEMBER 03, 2015 **(K. C. PURI)**
shalini **JUDGE**