IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2288 of 2009
Date of decision: 20.03.2015

Murti Devi and others ….Appellants

Versus

Ramphal 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 Bhardwaj, Advocate
for respondents No.1 and 2.

Ms. Vandana Malhotra, Advocate
along with Ms. Monika Jangra, Advocate
for respondent No.3.

K.C. PURI J. (Oral)

This is an appeal directed by the widow, daughter, minor sons and father of deceased, namely, Ram Kumar, who is stated to have died in a motor vehicular accident.

The learned Tribunal after appraising all the evidence accepted the claim petition and allowed a sum of Rs.4,60,000/-. The income of the deceased was taken as Rs.3,300/- per month and 1/3rd amount was deducted in respect of personal expenses and monthly dependency was taken as Rs.2,200/- per month and annual dependency was taken as Rs.26,400/- (2,200 x 12). The age of the deceased was taken as 33 years and a multiplier of 17 was applied and in this manner a sum of Rs.4,48,800/- (26,400 x 17) was allowed. A sum of Rs.2,500/- was allowed in respect of funeral expenses, Rs. 5,000/- for loss of consortium and Rs.2,000/- on account of loss of estate and in this manner, amount calculated was Rs.4,58,300/-, which was rounded off to Rs.4,60,000/-.

The liability to pay the amount was that of driver, owner and insurance company jointly and severally. Since, this is an appeal for enhancement and as such, other facts need not to be repeated.

Learned counsel for the appellant has submitted that the deceased was earning Rs.8,000/- per month as Supervisor in Sugar Mills, Karnal and record (Ex. P-1) in this regard, has been produced. The learned Tribunal has wrongly assessed the income of the deceased as Rs.3,300/- per month. It is further submitted that the deceased was owing an agricultural land also and his claim regarding agricultural land has been discarded only on the ground that the same has been inherited by the legal representatives. So, it is prayed that income of the deceased be taken as Rs.8,000/- per month.

I have considered the submissions made by learned counsel for the appellant, but do not find any force in that submissions.

The learned Tribunal observed that no agreement regarding the appointment of the deceased has been produced. It has further been observed by the learned Tribunal that the agricultural land are being cultivated by the family members. So, that finding are based upon reasoning and as such, does not call for any interference.

The next argument advanced by learned counsel for the appellant is that the deceased was aged about 33 years and was working as Supervisor in a Sugar Mills, Karnal. So, the future prospects should have been taken into account and to fortify his argument, he has relied upon the authority ***"Rajesh and others vs. Rajbir Singh and others"*** reported in ***2013 (3) R.C.R. (Civil) 170*** and has further submitted that the Hon'ble Apex Court in recent authority ***"Kanhsingh and another vs. Tukaram and others"*** reported in ***2015 (1) Law Herald 220*** and in authority ***"Smt. Neeta W/o Kallappa Kadolkar and others vs. The Divisional Manager, MSRTC, Kolhapur"***, reported in ***2015 (1) R.C.R. (Civil) 625***, held that future prospects in respect of personal and private employment should have also been taken into account in view of the authority Rajesh and others case (*supra*). In my view that argument carries weight and has to be accepted. The Hon'ble Apex Court in Smt. Neeta's case (*supra*) held that in case there is a death of a worker in a private employment, in that case future prospects should be taken into account. The age of the deceased was 33 years and as such, in view of the authority Rajesh and others case (*supra*), the future prospects should be taken to the extent of 50% of the salary meaning thereby Rs.1,650/- should be added in respect of the future loss to the claimants. So a sum of Rs.4,950/- can be taken as the income of the deceased.

The next contention raised by learned counsel for the appellant is that claimants are five in number and as such, the deduction in respect of personal expenses should be to the extent of 1/4th share in view of ***"Smt. Sarla Verma vs. Delhi Transport Corporation and another"*** reported in ***2009 (3) R.C.R. (Civil) 77.***

Learned counsel for the respondent did not refute that argument. So, after taking into account, the deduction of 1/4th in respect of personal expenses, the monthly dependency of the claimants comes to Rs.3,712.5. So, the yearly dependency comes to Rs.44,550/-(3712.50 x 12).

However, learned counsel for the appellant is fair enough to concede that multiplier applicable at the age of 33 years is 16 and not 17 as awarded by the learned Tribunal. So, by applying the multiplier of 16, the amount of compensation comes to Rs.7,12,800/-(44550 x 16)

The next argument advanced by the learned counsel for the appellant is that an amount of Rs.5,000/- in respect of loss of consortium is on the lower side and the same should be allowed by keeping in view Rajesh and others case (*supra*).

However, in the present case, the death has taken place in the year 2007, so, the amount of consortium has to be allowed by keeping in view the price index prevailing at that time, so the ends of justice should be met in case, a sum of Rs.50,000/- is allowed in respect of loss of consortium, another sum of Rs.50,000/- stands allowed in respect of love and affection and another sum of Rs.15,000/- stands allowed in respect of transportation, funeral expenses, etc. So, in this manner, the claimants are held entitled to Rs.8,27,800/- in all heads. Out of this enhanced amount of Rs.3,67,800/-, Rs. 2,00,000/- shall be paid to the widow, whereas the remaining amount shall be paid to the remaining claimants in equal share. The share of the minors shall be deposited in the form of FDRs in such a manner that he can get the maximum rate of interest, however, the minors can withdraw the amount after attaining the age of majority. However, in case Murti Devi desires, then she can apply for giving the interest component to her children for maintenance. The liability to pay the enhanced amount shall remain the same as ordered by the learned Tribunal. The said amount shall carry interest @ 7.5% per annum from the date of application till payment.

Disposed of, accordingly.

(K.C. PURI)
JUDGE

20.03.2015
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