IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No.29 of 2009 (O & M)
Date of Decision: *February 13, 2015*

Sona & others

..... APPELLANT(S)

VERSUS

Balkaran Singh & others

..... RESPONDENT(S)

. . .

CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

. . .

1. Whether Reporters of 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?

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PRESENT: - Mr. Ashok Arora, Advocate, for the appellants.

Mr. D.R. Bansal, Advocate, for respondent No.3 – Insurance Company.

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Jaspal Singh, J

1. The instant appeal has been preferred by the claimants seeking enhancement of compensation on account of death of Dalip Singh, husband of appellant No.1, who died in a motor vehicular accident involving Truck No.HR-55B-2204.

2. While assailing impugned award dated September 16, 2008 passed by the Motor Accident Claims Tribunal, Fatehabad (for short, 'Tribunal'), learned counsel for the

appellants has contended that compensation awarded by the learned Tribunal is on lower side and thus, liable to be enhanced. Income of deceased has been wrongly assessed to the tune of ₹ 3,000/- per month. Dalip Singh was an agriculturist and his monthly income was not less than ₹ 10,000/-. As per jamabandi Ex.P6, appellant No.1 is owner of land measuring ½ share of 92 kanals 17 marlas and her husband used to cultivate the land. Besides, no compensation has been awarded on account of future prospects and loss of consortium, whereas only a paltry amount of ₹ 5,000/- has been awarded on account of funeral expenses.

3. Per contra, learned counsel for respondent No.3 – Insurance Company has supported the award passed by the Tribunal. He has submitted that since just and adequate compensation has already been awarded by the Tribunal while keeping in view the facts & circumstances of the case, evidence available on file and latest proposition of law, no interference of this Court is justified and the instant appeal deserves to be dismissed with an exemplary cost.

4. This Court has given an anxious thought to the rival submissions made by learned counsel for the parties and gone through the record available.

5. The Tribunal assessed the income of Dalip Singh, since deceased, as ₹ 3,000/- per month. After deducting 1/3rd from his income, dependency has been assessed ₹ 2,000/- per month i.e. ₹ 24,000/- per annum. The Tribunal, by applying multiplier of 16, awarded compensation to the tune of ₹ 3,84,000/-. In addition to it, a sum of ₹ 5,000/- was awarded on account of funeral expenses.

6. Undoubtedly, no amount of compensation has been awarded by the learned Tribunal on account of loss of future prospects and loss of consortium whereas only a sum of ₹ 5,000/- has been awarded under the conventional head. Impugned award cannot said to be absolutely legal or that amount awarded as compensation is just and adequate. This Court of the considered view that compensation so awarded by the learned Tribunal deserves to be enhanced and the award modified.

7. In view of the pronouncement of Hon'ble Apex Court in Rajesh & others vs. Rajbir Singh & others, 2013(3) RCR (Civil) 170, appellants – claimants are entitled to future prospects to the extent of 50% i.e. 1,92,000/- keeping in view the age of deceased to be 35 years at the time of untimely death. Similarly, in view of the law laid by the Hon'ble Apex Court in

Sarla Verma Vs. Delhi Transport Corporation, 2009(2) RCR (Civil) 77, appellant No.1 being widow of Dalip Singh (deceased) is entitled to compensation on account of loss of consortium to the tune of ₹ 1 lac and an amount of ₹ 25,000/- on account of funeral expenses against a sum of ₹ 5,000/- awarded by the learned Tribunal.

8. In the light of what has been discussed above, appeal is partly allowed and the claimants are, thus, entitled to enhanced compensation to the tune of ₹ 7,01,000/- instead of ₹ 3,89,000/- alongwith interest as already awarded by the Tribunal from the date of institution of the petition before the learned Tribunal. Enhanced amount shall be payable by the Insurance Company which shall be shared equally by appellants – claimants. In case of minor appellant(s), if any, his/her share shall be deposited in the shape of FDRs in any nationalized bank and to the interest accrued thereon, appellant – claimant No.1 shall be entitled to withdraw for bringing up the minor(s).

9. No order as to costs.

(Jaspal Singh)
Judge

February 13, 2015
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