IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.3612 of 2009

Date of decision: 5th February, 2015

Vinod Rani and another

… Appellants

Versus

Naresh Kumar and others

… Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Sandeep Kotla, Advocate
for the appellants.

Mr. Sanjay Dhiman, Advocate
for respondents No.1 and 2.

Mr. M.B. Jain, Advocate – Standing Counsel
for respondent No.3.

FATEH DEEP SINGH, J.

Appellant/claimants, who are the unfortunate parents of deceased Sunil Kataria, are aggrieved over the findings by way of Award dated 13.02.2009 of learned Motor Accident Claims Tribunal, Hisar whereby they have been awarded ₹12,10,000 as compensation along with interest and have sought enhancement of the same.

Heard Mr. Sandeep Kotla, Advocate for the claimant/appellants; Mr. Sanjay Dhiman, Advocate representing the driver and owner/respondents No.1 and 2 respectively and Mr. M.B.

Jain, Advocate for the insurer/respondent No.3 and perused the records.

The findings of learned Tribunal as to the manner of accident by way of issue No.1 which has been decided in favour of the claimants needs to sustain as they have never been assailed of by any of the sides.

It is case of the claimants that deceased was aged around 21 years, a bachelor and a student of 3rd year of BDS. Though the family through PW1 Sandeep one of the class-mates of the deceased has sought to prove the likely earnings after completion of the course but the same is sought to be opposed on behalf of the respondents by stoutly arguing that no such formula needs to be applied. The learned Tribunal has assessed earnings of the deceased had he been alive to the tune of ₹15,000 per month and the learned counsel for the appellants could not convince this Court how the same was irrational considering the fact that he was to work as a trainee Dentist in the formative years of his profession and in view of the settled position of law which has been conceded too even by the other side, 1/2 needs to be deducted in the light of ratio laid down in **'New India Assurance Company Ltd. v. Gopali and others'** reported in **2012 (3) RCR (Civil) 818**, and therefore likely dependency of the family per month comes to ₹7,500 and therefore, the annual dependency goes to ₹90,000. In view of the age of the deceased, multiplier of 18 needs to be applied and therefore, compensation comes to ₹16,20,000. Besides this, as has been submitted the family ought to have spent money on the last rites and ceremonies of the deceased, parents have lost their young educated son in the prime of his youth and must have suffered enormously on account of the loss of love and affection and though not much is available by way of evidence, however, in view of the welfare nature of the Statute by some amount of guesswork and hypothetical assessment a sum of ₹1.50 lacs is awarded under the conventional heads including funeral expenses. Therefore, total compensation comes to ₹17,70,000 (rupees seventeen lacs seventy thousand only). Thus the Award certainly is on the lower side.

Admittedly, respondent Naresh Kumar is driver, Rampal owner and IFFCO-TOKIO General Insurance Company Ltd. is insurer of the offending vehicle and thus, all of them shall be jointly and severally liable to pay the amount of compensation so computed.

Besides this, the claimants are also entitled to interest @7.5% p.a. on the enhanced amount from the date of filing of the appeal till realization. Interim compensation paid, if any, shall be adjusted. Rest of the stipulations laid down by the Tribunal shall remain the same.

No other point has been argued.

With these discussions, the impugned Award is modified by way of acceptance of the present appeal in those terms.

(FATEH DEEP SINGH)
JUDGE

February 5, 2015
rps