IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

F.A.O. No. 5728 of 2009
Date of decision : January 22, 2015

Som Dutt and another

....Appellants

versus

Raju and others

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Ivneet Singh Pabla, Advocate, for the appellants
Mr. RN Singhal, Advocate for Insurance Company-respondent no. 3
None for respondents no. 1 and 2

Fateh Deep Singh, J. (Oral)

The appellants are unfortunate parents of deceased Naresh Kumar, a young bachelor aged around 24 years who met his nemesis in a motor vehicular accident on 11.8.2007 when offending vehicle a three wheeler No. HR-37-B-8417 being driven rashly and negligently by its driver Raju hitting the deceased. Neither the driver nor the owner have assailed the findings that the accident was result of rash and negligent driving by way of findings on issue no. 1 and therefore, has attained finality.

Heard Mr. Ivneet Singh Pabla, Advocate, for the appellants and Mr. RN Singhal, Advocate for Insurance Company-respondent no. 3 and perused the record.

The argument advanced by counsel for the insurer-respondent revolve around the very quantum of compensation.

The learned Tribunal has appreciated the fact that there is no documentary proof as to the avocation and income of the deceased who is claimed to be working in a private company and thus has considered him to be earning Rs 3000/- per month as a daily wager and which is certainly on the lower side than the daily wages notified and prevalent at the time of accident and with some amount of guess work, there is likelihood that the deceased was earning Rs 3500/- per month as daily wager. In view of **New India Assurance Company Limited vs. Gopali and others, 2012 (3) RCR (Civil) 818** being bachelor 1/2 needs to be deducted for his own upkeepment and maintenance and therefore, the deceased must be contributing Rs 1750/- per month to the running of the household which is reasonable and therefore, annual dependency comes to Rs 21,000/-. The post mortem depicts the age of the deceased to be 24 years and being only documentary evidence, the same has not been successfully controverted by respondent-insurer. In view of the law laid down in ***Sarla Verma and others versus Delhi Transport Corporation and another, 2009 (6) SCC 121*** multiplier of 14 needs to be applied and therefore, compensation comes to Rs 2,94,000/-. Besides this, earning son a source of love and affection and protection in oldage and under these conventional heads including expenses incurred in funeral and last rites, a sum of Rs 1,50,000/- needs to be awarded. Learned Tribunal has failed in awarding just amount even for funeral expenses and the one awarded is certainly on the lower side and therefore, total compensation comes to Rs 4,44,000/- (Rupees Four lacs and forty four thousands only). No other argument was raised by any of the sides and thus, apparently awarded compensation needs to be enhanced by way of modification of the impugned award to that extent. However, it is made clear that the appellants shall be entitled to interest @ 7.5% per annum from the date of filing of the appeal till realization. Interim compensation paid, if any, shall be adjusted. Rest of the stipulations need not be disturbed. The appeal is thus allowed in those terms.

(Fateh Deep Singh)
January 22, 2015 **Judge**
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