IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3273 of 2010 (O&M)
Date of decision: 25.05.2015

Ida ….Appellant

Versus

Sahun and others ….Respondents

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

Present: Mr. Ram Bilas Gupta, Advocate
for the appellant.

Mr. N.K. Bibya, Advocate
for Mr. Ashwani Talwar, Advocate
for respondent No.3.

K.C. PURI J. (Oral)

This is an appeal directed by mother of deceased claiming compensation on account of death of Israil in a motor vehicular accident.

The learned Tribunal after adjudication has partly accepted the claim petition and allowed a sum of Rs.3,88,000/-.

The only point urged before this Court is regarding quantum and as such, the other facts need not be narrated. Before the Tribunal the claimant has alleged that the deceased was earning Rs.8,000/- per month. The Tribunal has taken the income of the deceased as Rs.3,500/- per month being the minimum wages. The yearly income was taken as Rs.42,000/- Since, the deceased was a bachelor and as such, keeping in view the authority **"Smt. Sarla Verma and others vs. Delhi Transport Corporation and another"** reported in **2009(3) R.C.R. (Civil) 77**, ½ was deducted in respect of personal expenses and yearly dependency was taken as Rs.21,000/-. The deceased was 19 years and as such, the multiplier of 18 was applied and the amount of compensation was calculated as Rs.3,78,000/-. Rs.5,000/- was allowed in respect of funeral expenses and Rs.5,000/- was allowed in respect loss of estate and in this manner, a sum of Rs.3,88,000/- was allowed along with interest @ 6% per annum.

Learned counsel for the appellant has not argued about the income taken by the Tribunal as Rs.3,500/- per month, however, he has submitted that future prospects should have been taken into account while granting the amount of compensation. He has further submitted that amount in respect of loss of love and affection and funeral expenses are on lower side.

Learned counsel for the insurance company has submitted that the multiplier has to be applied according to the age of the claimant and not on the age of deceased as he was unmarried.

I have considered the submissions made by learned counsel for both the parties and have gone through the file carefully with their able assistance.

The income of the deceased has been taken as Rs.3,500/- per month which has not been challenged by either of the party. So, the income of the deceased is taken as Rs.3,500/- per month.

The first point for determination is regarding the multiplier. No doubt, the Tribunal has applied the multiplier according to the age of the deceased but the three Judges Bench of Hon'ble Apex Court in "**New India Assurance Company Limited vs Shanti Pathak (Smt.) and others"** reported in **(2007) 10 SCC 1**, has held that the multiplier has to be applied according to the age of the parents when deceased is a bachelor.

The second point for determination is regarding the future prospects. The future prospects in my view has also to be applied according to the age of the claimant where the deceased is a bachelor. The age of the deceased has been taken as 19 years, however the age of the claimant is not clear from the record. So, the age of the claimant can be safely taken in the age group of 40 to 45 years. So, in view of the authority **"Rajesh and others Vs. Rajbir Singh and others"** reported in **2013(3) R.C.R. (Civil) 170,** the future prospects available in the age group of 40 to 45 years is 30%. So, by adding 30% in the income of Rs.3,500/-, the income of the deceased can be taken as Rs.4,550/- by taking in view the future prospects to the extent of 30%. So, the amount of income comes to Rs.4,550/-. The claimant is a mother of deceased so, ½ has to be deducted in respect of personal expenses of deceased. So, the dependency comes to Rs.2,275/- and the yearly dependency comes to Rs.27,300/-. The multiplier at the age group of 40 to 45 is 14. So, by applying that multiplier, the amount of compensation comes to Rs.3,82,200/-. A sum of Rs. 20,000/- stands allowed in respect of expenses on last rites and transportation. The claimant is also held entitled to claim Rs.70,000/- in respect of loss of love and affection. The amount on last rites, transportation and loss of love and affection has been allowed by keeping in view the price index of 2007. So, in this manner the claimants are held entitled to claim Rs.4,72,200/-. The claimant shall also be entitled to interest @ 7.5% per annum from the date of application till payment.

At this stage, learned counsel for the claimant has submitted that the interest be allowed @ 12% per annum by keeping in view the authority **"Vimal Kanwar and others vs Kishore Dan and others"** reported in **2013 ACJ 1441**. However, in view of the authority Rajesh and others case (supra) 3 Judges Bench of Hon'ble Apex Court allowed the interest @ 7.5% per annum. So, the authority Rajesh and others case (supra) will prevail over the Division Bench authority of Vimal Kanwar and others case (supra). So, interest is granted @ 7.5% per annum from the date of application till payment. The liability to pay the amount shall be same as ordered by Tribunal.

Appeal stands disposed of, accordingly.

A copy of this order be sent to the Tribunal for compliance.

(K.C. PURI)
JUDGE

25.05.2015
yakub