IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 09.07.2015

<u>1. FAO No.1315 of 2012 (O&M)</u>

Anju Bala ....Appellant

Versus

Amar Singh and others ....Respondents

<u>2. FAO No.6253 of 2012 (O&M)</u>

Bajaj Allianz General Insurance Company Limited

....Appellant

Versus

Anju Bala and others ....Respondents

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

Present: Mr. Vikas Kumar, Advocate
for the appellants in FAO No.1315 of 2012
and for respondent No.1 in FAO No.6253 of 2012.

Mr. Subhash Goyal, Advocate
for the appellant in FAO No.6253 of 2012
and for respondent No.3 in FAO No.1315 of 2012.

<u>K.C. PURI J. (Oral)</u>

Vide this common order, I intend to dispose of FAO No.1315 of 2010, titled as "*Anju Bala vs Amar Singh and others*", directed by the claimant and FAO No.6253 of 2012, titled as "*Bajaj Allianz General Insurance Company Limited vs Anju Bala and others*" directed by the insurance company challenging the amount of compensation, against the award dated 15.09.2012 passed by Sh. S.K. Garg, Motor Accident Claims Tribunal, Ferozepur, vide which the claim petition was partly accepted and the claimant was held entitled to claim Rs.6,53,000/-. The income of the deceased was taken as Rs.6,000/- per month as he was a student of Ist semester in a private engineering college. By 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**, 50% amount was deducted in respect of personal expenses. The age of the deceased was 01 month short of 18 years and as such, the multiplier of 18 was applied. The monthly dependency has been taken as Rs.3,000/- per month and the yearly dependency comes to Rs.36,000/- (3,000 x 12). By applying the multiplier of 18, the amount of compensation was calculated as Rs.6,48,000/-. Another sum of Rs.5,000/- was allowed in respect of funeral expenses and last rites and in this manner, the amount of Rs.6,53,000/- was allowed.

The claimant-mother has directed this appeal for enhancement.

Since, both these appeals have arisen out of the same award and as such, are being disposed of with common order.

Learned counsel for the claimant/appellant-Anju Bala has submitted that this Court in FAO No.72 of 2012 decided on 24.07.2012, has taken the income of deceased as Rs.10,000/- where the deceased was a student of mechanical engineering in a private college. Learned counsel for the claimant/appellant has further submitted that in view of authority **“Josphine James vs. United India Insurance Company Limited”** reported in **2013 ACJ 2418**, the Hon'ble Apex Court allowed the multiplier of 20 where the age of the deceased was 25 years. He has further relied upon the authority **“Sanobanu Nazirbhai Mirza and others vs Ahmedabad Municipal Transport Service”** reported in **2013 (4) RCR (Civil) 733**. It is further submitted that no amount in respect of loss of love and affection has been allowed and the amount in respect of funeral expenses is on lower side.

In reply to the abovesaid submissions, learned counsel for the insurance company has submitted that the amount allowed is already excessive and the multiplier applicable should be on the age of parents in view of authority **“New India Assurance Company Ltd. Vs Shanti Pathak (Smt.) and others”** reported in **(2007) 10 SCC 1**. It is further contended that the income of the deceased as Rs.6,000/- per month is also on higher side.

I have considered the submissions made by learned counsel for both the parties and have gone through the record of the case.

The first moot point which has been raised in the present case is regarding the applicability of multiplier. Learned counsel for the appellant by relying upon the authority Sanobanu Nazirbhai Mirza's case (supra) has submitted that the multiplier of

20 should be applied, whereas counsel for the insurance company has submitted that claimant-Anju Bala was 38 years and as such, in view of authority Sarla Verma's case (supra), the multiplier of 15 should be applied.

The said controversy has been set-at-rest by Hon'ble Apex Court in latest authority **“Munna Lal Jain and another vs Vipin Kumar Sharma and others”** in **Civil Appeal No.4497 of 2015 decided on 15.05.2015**. The Hon'ble Apex Court has held that in case of bachelor, the age of the deceased is relevant factor for applying the multiplier. The reasoning given by Hon'ble Apex Court is that claimant may be different and there could be wide variance in their ages and which of the age should be taken for determining multiplier could pose a difficult question. So, in view of authority Munna Lal Jain's case (supra) passed by three Judges Bench of Hon'ble Apex Court, the insurance company cannot have benefit of authority New India Assurance Company Limited Vs Shanti Pathak's case (supra). Otherwise, also Motor Vehicles Act is a welfare legislation and has been enacted with a view to provide fair compensation to the road victim and as such, the balance tilt in favour of the claimant. Since, there are two authorities of equal Bench, so, the authority Munna Lal Jain's case (supra) which gave elaborate reasoning has to be followed. So, by following that authority, the multiplier should be applied on the age of the deceased as per authority Munna Lal Jain's case (supra). The authority Sarla Verma's case (supra) has been followed for computation of compensation, so, the multiplier has to be applied according to that authority. So, in these circumstances, counsel for the appellant/claimant cannot drive benefit of authority Sanobanu Nazirbhai Mirza's case (supra) passed by two Judges Bench of Hon'ble Apex Court. So, in these circumstances, the multiplier of 18 has rightly been applied by the Tribunal.

The second point for consideration is regarding the income of the deceased. The Tribunal has taken the income of the deceased as Rs.6,000/- per month. The deceased was a student of Ist semester in a private engineering college. Counsel for the appellant has relied upon the authority FAO No.72 of 2012 titled as **"Rekha Rani wife of Kishore Kumar, and another vs. Ranjit Singh son of Darbara Singh, resident of Malkana Patti, Wadi Majri, Samana, Tehsil Samana, District Patiala, and another"** decided on 24.07.2012, and on the strength of the same, he wanted that the income should be taken as Rs.10,000/- per month. The income of the deceased has been rightly taken as Rs.6,000/- per month. However, there is one other grey area which require consideration. The future prospects has to be taken into account as per authority **"Rajesh and others Vs. Rajbir Singh and others"** reported in **2013(3) R.C.R. (Civil) 170.** So, 50% amount is added in respect of future prospects. So, the income of the deceased is be taken as Rs.9,000/- per month. The deceased was a bachelor and as such, 50% amount has to be deducted in respect of personal expenses in view of authority Sarla Verma's case. The dependency of the claimant comes to Rs.4,500/- per month after deducting ½ in respect of personal expenses. The yearly dependency comes to Rs.54,000/-. The multiplier applicable is 18, so, by applying that multiplier, the amount of compensation comes to Rs.9.72,000/-. The claimant is also held entitled to claim Rs.25,000/- in respect of expenses on last rites and transportation. The claimant is further held entitled to claim Rs.1,00,000/- in respect of loss of love and affection in view of authority Rajesh and others case (supra). So, in these circumstances, the claimant is held entitled to claim Rs.10,97,000/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of application till payment. The liability to pay the amount shall be same as ordered by the Tribunal. Consequently, the appeal preferred by the insurance company stands dismissed, whereas the appeal preferred by the claimant stands partly accepted to the extent mentioned above.

Both the appeals stand disposed of, accordingly.

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

(K.C. PURI)
JUDGE

09.07.2015
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