

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 341 of 2012 (O/M)
Date of decision : 31.3.2015

Om Parkash and others

..... Appellants

Versus

Mahesh Kumar and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Chanderhas Yadav, Advocate, for the appellants.

Mr. Kewal Krishan, Advocate, for,
Mr. Sanjay Mittal, Advocate, for respondents No. 1 and 2.

Ms. Monika Jangra, Advocate, for,
Ms. Vandana Malhotra, Advocate, for respondent No. 3.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH, J. (ORAL)

This is claimants' appeal for enhancement of compensation awarded by the Motor Accident Claims Tribunal, (in short 'the Tribunal'), Rewari, vide order dated 16.8.2011.

The brief facts of the case are that on 8.11.2010, at about 2:10 P.M., Madhu Bala, aged about 24 years, accompanied by her husband Om Parkash and minor son Dev Yadav, was going on a motorcycle from village Daruhera to village Noorpur Jharsa, then a truck bearing registration No. RJ-23-GA-1905, being driven rashly

and negligently by its driver Mahesh Kumar (respondent No. 1 before the Tribunal), struck the motorcycle from behind. As a result of the said accident, Madha Bala lost her life. A criminal case bearing FIR No. 354 dated 13.11.2010 under Section 279/304-A IPC was registered against the driver at Police Station Dharuhera.

It was stated that the deceased had just completed Beauty Culture Course. So, she was likely to earn Rs. 12000-16000 per month in near future. Rs. 20,000/- were spent on the transportation and last rites of the deceased.

Suffice to say that the case was contested by the respondents.

After recording the evidence, the Tribunal took the notional income of the deceased to be Rs. 21,000/- per annum, applied the multiplier of 18 and worked out the compensation to Rs. 3,78,000/-. Rs. 5,000/- on account of loss of consortium, Rs. 5,000/- for loss of estate and Rs. 5,000/- as funeral expenses were also awarded. Thus, the total compensation of Rs. 3,93,000/- was awarded alongwith interest @ 6% per annum from the date of filing the petition till its realization. The insurance company was held liable to pay the compensation.

I have heard learned counsel for the parties and have also carefully gone through the file.

Learned counsel for the appellants/claimants have argued that the notional income of the deceased was wrongly

calculated. A Division Bench of this Court in Paramjit Singh and another Versus Dilbagh Singh alias Bagga and others, 2014 (4) RCR (Civil) 895, held that even in case of a housewife, the notional income of the wife is to be taken as Rs. 3,000/- per month for the services rendered to the family. As per the authority of the Three-Judges Bench of the Hon'ble Supreme Court in Lata Wadhwa and others Versus State of Bihar and others, no deduction is to be made. In this way, the notional income will come to Rs. 36,000/- per annum. If multiplier of 18 is applied, the amount of compensation comes to Rs. 6,48,000/-.

In view of the authority of the Hon'ble Supreme Court in Rajesh Versus Rajbir Singh, (2013) 9 SCC 54, Rs. 1,00,000/- on account of loss of love and affection to the minor son, Rs. 1,00,000/- on account of loss of consortium to the husband, Rs. 25,000/- for funeral and last rites and Rs. 25,000/- for loss of estate are allowed. The total amount of compensation comes to Rs. 8,98,000/-. So far as the future prospects are concerned, since no deduction is made, the future prospects are not allowed. The enhanced amount shall be paid with interest @ 7.5% per annum from the date of filing the petition till its realization. Out of the enhanced amount of compensation, 50% shall go to the husband of the deceased, namely, Om Parkash and 50% shall go to the minor son of the deceased, namely, Dev Yadav. The share of the minor son shall be kept in the form of long term FDR with the nationalized bank of the

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authenticity of this document

choice of Om Parkash (claimant) wherein the date of birth of the minor shall also be recorded. The share of the minor son shall be released to him without any further order from the Court on his becoming major.

Consequently, the present appeal is allowed.

(KULDIP SINGH)
JUDGE

31.3.2015
sjks