

In the High Court of Punjab and Haryana at Chandigarh

.....

CM No.27504-CII of 2012

and

F.A.O. No.5896 of 2012

.....

Date of decision:8.7.2015

Ruchi and others

.....Appellants

v.

M/s Preethi Himachal & Company and others

.....Respondents

....

Coram : Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Gaurav Chopra, Advocate for the appellants.

Mr. Amit Kainth, Advocate for respondent No.1.

Service of respondent No.2 dispensed with.

Mr. Banni Thomas, Advocate for respondent No.3.

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Inderjit Singh, J.

CM No.27504-CII of 2012:

For the reasons mentioned in the civil miscellaneous application, the delay of 430 days in filing the appeal is condoned.

The civil miscellaneous application stands disposed of.

R.S.A. No.5896 of 2012:

This appeal has been filed by claimants-Ruchi, Abhishek and Dinesh Kumar for enhancement of the compensation against M/s Preethi

[2]

Himachal & Company-owner, Mohinder Singh-driver and National Insurance Company Limited-insurer of Maruti Baleno car No.HP-12B-2510 (hereinafter referred to as 'the offending vehicle') challenging the award dated 2.5.2011 passed by the Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal'), vide which an amount of ₹5,96,072/- has been granted as compensation to the claimants along with interest @7.5% per annum from the date of filing of the claim petition till realization of the amount.

Notice of motion in this case was issued. Mr. Amit Kainth, learned Advocate has appeared on behalf of respondent No.1 and Ms. Banni Thomas, learned Advocate has appeared on behalf of respondent No.3 and contested this appeal. Service of respondent No.2 was dispensed with. The record of the learned Tribunal was also summoned.

At the time of arguments, learned counsel for the appellants-claimants argued that no amount has been granted on the ground of love and affection and only ₹10,000/- has been awarded on account of loss of consortium. He also argued that only amount of ₹10,000/- has been granted on the ground of transportation and funeral expenses. He further argued that no compensation on account of future prospectus has been awarded by the learned Tribunal.

On the other hand, learned counsel for the respondents argued that the Tribunal has rightly calculated the compensation and there is no ground made out for enhancement.

[3]

I have heard leaned counsel for the parties and have gone through the record of the Tribunal.

From the record, I find that the Tribunal has taken the income of Rajesh Kumar Yadav (since deceased) at ₹4,000/- per month, who died in a motor vehicle accident on 5.7.2007 at about 3.25 a.m., when he was sitting as pillion rider of motorcycle No.UP-20M-5259 and met with an accident with offending vehicle bearing No.HP-12B-2510, by making deduction of 1/3rd and by applying the multiplier of 18 calculated the compensation of ₹5,96,072/-. ₹10,000/- has been granted for funeral expenses and transportation and ₹10,000/- for loss of consortium. As per the law laid down by the Hon'ble Supreme Court in Rajesh and others v. Rajbir Singh and others, 2013(3) R.C.R. (Civil) 170, the persons, who are employed and less than 40 years of age, future prospectus @50% should have been granted. In this judgment, it was held that an amount of ₹1 Lac should be given as loss of consortium, ₹25,000/- for transportation and funeral expenses. Keeping in view the law laid down in this judgment by the Hon'ble Supreme Court and again as held by the Three Judges Bench of the Hon'ble Supreme Court in Munna Lal Jain and another v. Vipin Kumar Sharma and others, Civil Appeal No.4497 of 2015 (Arising from S.L.P. (C) No.8362 of 2013), decided on 15.5.2015, the Hon'ble Supreme Court has held that the future prospectus should be 50% in case of self-employed person. Further, I find that no compensation has been awarded towards the loss of love and affection to the minor claimants. Therefore, in view of the above discussion, the compensation is computed as under:-

[4]

1. Income of the deceased :₹4,000/- per month	
2. After adding 50% future :₹6,000/- prospectus per month	
3. After deducting 1/3 rd and applying the multiplier of 18, the dependency comes to ₹4,000 x 12 x 18	:₹8,64,000/-
4. For loss of consortium	:₹1,00,000/-
5. On account of love and affection to the minor children	:₹1,00,000/-
6. Funeral and transportation expenses	:₹ 25,000/-
Total	:₹10,89,000/-

Keeping in view the above facts and circumstances, the total amount of compensation comes to ₹10,89,000/-. The amount is enhanced accordingly. The enhanced amount of compensation will be paid by the Insurance Company along with the interest as awarded by the Tribunal and as per share as awarded by the Tribunal. The interest on the enhanced amount will be paid from the date of filing of claim petition till actual payment. The Insurance Company is directed to pay the enhanced amount of compensation to the appellants accordingly.

The appeal is disposed of accordingly.

July 8, 2015.

(Inderjit Singh)
Judge

hsp