IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1098-2013
Date of decision: 17.9.2015

Sushma Devi and others

...Appellants

Versus

Jagdeep Singh and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.DS Nain, Advocate for the appellants

Mr.Amit Kundra, Advocate
for respondent No. 3- Insurance Company

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SNEH PRASHAR, J.

By filing the instant appeal, the claimants-appellants have sought enhancement of the compensation amount awarded by learned Motor Accidents Claims Tribunal, Kaithal (in short 'the Tribunal'), vide award dated 4.9.2012, on account of death of Ved Parkash in a motor vehicular accident.

The submissions made by learned counsel for the parties have been heard and record perused.

Learned counsel representing the claimants-appellants submitted that the deceased was running a tea stall and sweet shop and was earning Rs.15,000/- per month, however, the learned

Tribunal without considering the said facts, had assessed the income at Rs.3500/- per month on the basis of minimum wages, which is on the lower side. No amount has been awarded towards loss of love and affection to the mother as well as the children. The amount awarded towards loss of consortium, loss of estate and funeral expenses is also on the lower side.

On the other hand, learned counsel for respondent No.3-Insurance Company resisted the prayer of the claimants-appellants and submitted that just and adequate compensation has been awarded to them by learned Tribunal.

It is not a contentious issue that Ved Parkash, husband of appellant No.1 had died due to the injuries suffered by him in a road side accident on 17.2.2011. To prove that the deceased was earning Rs.15000/- per month, neither any account books, bank account statement or income tax return etc. were produced nor any independent person was examined to prove the business of deceased. Only appellant No.1 widow of deceased made a bald statement. Therefore, the income of the deceased assessed by learned Tribunal as Rs.3500/- per month considering him as daily wager appears to be adequate/ justified. However, perusal of the award shows that no amount was awarded towards future prospects. The deceased was 30 years of age at time of death. Keeping in view the law laid down in **Rajesh and others vs. Rajbir Singh and others (2013) 9 SCC 54,** an increase of 50% in income towards future prospects has to be added. However, the multiplier of 17 and the deduction towards personal expenses of the deceased to the extent of 1/4th have rightly been applied by learned Tribunal.

The untimely death of Ved Parkash was a great shock to his family. He left behind wife, two minor children and old mother. Perusal of the award shows that no amount has been awarded towards loss of love and affection to the mother and loss of love, care and guidance to the children. The amount awarded towards loss of consortium, loss of estate and funeral expenses also appears to be on the lower side. In the considered opinion of this Court and in the interest of justice, the compensation under the following heads is allowed/ enhanced:-

S.No.	Heads	From	To
1.	Loss of consortium, loss of estate and funeral expenses payable to the wife	Rs.10,000/-	Rs.1,25,000/-
2.	Loss of love, care and guidance payable to the minor children in equal share		Rs.40,000/-
4.	Loss of love and affection payable to the mother		Rs.20,000/-

Accordingly, the total compensation comes to Rs.9,88,250/- i.e. Rs.3500 (monthly income) + 50% (future prospects) x 3/4 (dependency) x 12 x 17 (multiplier) + 20,000 (loss of love and affection to the mother) + 40,000/- (loss love, care and guidance to the children in equal share) +1,25,000 (loss of consortium, loss of estate and funeral expenses including the amount already awarded. The balance enhanced compensation of Rs.4,42,750/- (9,88,250- 5,45,500/- already awarded) shall be paid to the claimants-appellants, in the manner indicated in this judgment as well as in the award passed by learned Tribunal, within a period of 45 days from the date of the receipt of the certified copy of the judgment, failing which, the claimants-appellants shall be entitled to interest @ 7.5% per annum from the date of the filing of the appeal till its realisation.

Consequently, the present appeal is partly allowed and the impugned Award is modified as indicated above.

17.9.2015 **(SNEH PRASHAR)**
gsv **JUDGE**