IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO NO. 1290 OF 2013 (O&M)
DECIDED ON : 16.07.2015

Indrawati and another
...Appellants

versus

Sonu Mandal and others
...Respondents

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

Present : Mr. Sandeep Goyat, Advocate,
for the appellants.

Mr. Rajneesh Malhotra, Advocate,
for respondent No.3.

K. C. PURI, J. (ORAL)

This case was fixed for summoning of respondent No.2.

Learned counsel for the parties have stated at the bar that Insurance company has been held liable and as such, service of respondent No.2 be dispensed with. In these circumstances, the service of respondent No.2 stands dispensed with.

Learned counsel for the parties have also stated at the bar that they are ready for arguments.

The parents and sister of deceased Surya Kant have directed this appeal against the Award dated 09.11.2010 passed by Shri Baljeet Singh, Motor Accident Claims Tribunal, Hisar, vide which claim petition claiming compensation to the tune of ₹25 lacs in respect of death of Surya Kant in a motor vehicular accident, which took place on 05.06.2007, was partly accepted.

The Tribunal, after adjudication, allowed a sum of ₹14,45,000/- as compensation. The deceased was unmarried and aged about 25 years. His income as proved on file was ₹10,000/- per month as he was working as lecturer of physics in Gurgaon Institute of Technology and Management. The yearly dependency was calculated as ₹80,000/- after deducting 1/3rd in respect of personal expenses. The multiplier of 18 was applied by the Tribunal. The amount of compensation awarded by the Tribunal was ₹14,40,000/- (80,000 x 18). Another sum of ₹5000/- was allowed in respect of transportation of dead body and funeral expenses. In this manner, the claimants were held entitle to claim ₹14,45,000/- as compensation.

The Insurance Company directed the appeal against the impugned Award and filed FAO No. 49 of 2011. This court vide judgment dated 06.01.2011 dismissed the said appeal. The Insurance Company thereafter filed petition for Special Leave to Appeal No. 15576 of 2011 but the same was also dismissed vide order dated 04.10.2012.

Learned counsel for the appellants has submitted that future prospects have not been taken into account while assessing the amount of compensation. It is further submitted that no amount in respect of loss of love and affection has been allowed and the amount allowed in respect of funeral expenses and transportation of dead body is also on lower side.

In reply to the above noted submission, learned counsel for the Insurance Company has submitted that deduction in this case has been made to the extent of 1/3rd whereas the claimants are parents and sister only. In view of authority ***"Sarla Verma and others vs. Delhi Transport Corporation and anr." 2009 (3) RCR (Civil) 77,*** the deduction has to be made to the extent of 50% in case of a bachelor.

Learned counsel for the Insurance Company has further submitted that there is delay of 739 days in filing the appeal which has already been condoned but no interest for that period can be allowed as the delay has occurred on account of lapse on the part of the appellants. It is further submitted that future prospects cannot be considered on the facts of present case as the deceased was having a fixed income of ₹10,000/- per month.

I have considered the submissions made by both the sides and have gone through the records of case.

The first point raised by both the parties is whether future prospects have to be considered on the facts of present case or not. The answer to that question is in positive. The deceased was drawing a salary of ₹10,000/- per month as he was working as Lecturer of Physics in Gurgaon Institute of Technology and Management. The Hon'ble Apex Court in authorities ***"Rajesh and others v. Rajbir Singh and others" 2012 (2) Apex Court Judgments 245 (SC)*** and ***Civil Appeal No. 4497 of 2015 decided on 15.05.2015 titled as "Munna Lal Jain and another vs Vipan Kumar Sharma and others",*** has held that future prospects have to be considered. So, future prospects have to be taken into consideration in this case also. So, after adding 50% in respect of future prospects, the income of deceased comes to ₹15,000/- per month. One half amount has to be deducted in respect of personal expenses in view of ***Sarla Verma and others' case (supra)***. So, after deducting one half, the dependency comes to ₹7500/- per month. The yearly dependency comes to ₹90,000/- (7500 x 12). The multiplier of 18 has rightly been applied by the Tribunal. So, by applying the multiplier of 18, the amount of compensation comes to ₹16,20,000/-. Taking into consideration the price index of the year 2007 when the accident took place, another sum of ₹20,000/- stands allowed in respect of expenses on last rites and transportation of dead body. Another sum of ₹70,000/- stands allowed in respect of loss of love and affection. In this manner, the claimants are held entitle to claim ₹17,10,000/-.

Learned counsel for the appellants has submitted that interest has been allowed @ 6% per annum which is on lower side.

The said argument carries weight and has to be considered.

The rate of interest has to be allowed taking into consideration the bank rates prevailing in the year 2007. So, in view of ***Rajesh and other's case (supra)*** and ***Munna Lal Jain and another's case (supra)***, the interest @ 7.5% per annum stands allowed from the date of application till its payment. However, the claimants shall not be entitled to claim interest on the enhanced amount for the period of 739 days as they themselves were negligent in filing the appeal. The liability to pay the amount shall remain the same as ordered by the Tribunal.

Disposed of.

JULY 16, 2015 **(K. C. PURI)**
shalini **JUDGE**