IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No.983 of 2012
Date of Decision: 12.03.2015

Mohinder Singh Chauhan and another

..... APPELLANTS

VERSUS

Pahlu Khan and others

..... RESPONDENTS

PRESENT: - Mr. D.K. Prajapati, Advocate for
Mr. R.S. Madan, Advocate
for the appellants.

Mr. Sanjiv Pabby, Advocate
for respondent No.3.

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

1) Whether Reporters of the local papers may be allowed to see the judgment?

2) To be referred to the Reporters or not?

3) Whether the judgment should be reported in the Digest?

SHEKHER DHAWAN, J.

The claimants have challenged the award of Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as 'the Tribunal') dated 21.09.2011 on the ground that the Tribunal has completely ignored the material facts including the age of the claimants, future prospectus of earnings of the claimants and expenditure incurred on account of transportation and funeral expenses etc. of the deceased.

Brief facts of the case that on 10.03.2010 Maninder Singh (since deceased) met with a motor vehicle accident involving Motorcycle bearing No.DL-45-AE-2687. The matter was reported to the police on the same day by Ajay Pratap. Maninder Singh was of the age of 21 years at the time of death. As per claimants, he was earning ₹15,000/- per month as he was working as a Clerk in M/s Salasar Complexes and Buildicon (Pvt.) Ltd. since May, 2009 to March, 2010. A sum of ₹50,000/- was spent on transportation and funeral of Maninder Singh. Both the claimants i.e the parents of the deceased were dependent upon the income of Maninder Singh. As per appellants, the Tribunal awarded compensation amount of ₹5,05,000/- and prayed that the same may be enhanced to ₹20 lacs.

Learned counsel for the appellants took the plea that the Tribunal completely ignored the fact that Maninder Singh was of the age of 21 years and the multiplier to be applied for arriving at the amount of compensation was to be taken in view of the age of the deceased whereas the Tribunal fell in error while calculating the amount of compensation taking the age of the parents. In support of his arguments, learned counsel for the appellants placed reliance upon the judgments of this Court in cases of **Rajneesh and another Vs. Om Parkash and others** in FAO No.3174 of 2013 (O&M) and **Poonam and others Vs. Jagvinder Singh @ Jaswinder Singh and others** in FAO No.264 of 2012.

Learned counsel for the appellants also took the plea that income of deceased has been proved to be ₹15,000/- per month. The same is evident from the salary certificate Ex.P-6 duly proved on the file as per statement of PW-3, who made the statement on the basis of the record but still the Tribunal took the income of the deceased to be ₹7,500/- per month, which has got no basis. More so, a meager amount of ₹10,000/- has been awarded on account of transportation and last rites of the deceased.

Learned counsel for the appellants also took the plea that the Tribunal has not taken into consideration the future prospectus of earnings of Maninder Singh as he was still of the age of 21 years and with the passage of time, his salary was to grow considerably and that way, the financial loss for the claimants is to be assessed keeping in view the future prospectus of earnings of the deceased as per law laid down by Hon'ble the Apex Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another**, (2009) 6SCC 121.

While arguing on this point, Mr. Sanjiv Pabby, Advocate for respondent No.3 took the plea that the Tribunal had already taken all these aspects into consideration. As the deceased was unmarried, age of the parents-claimants is to be taken into account while calculating the amount of compensation applying the multiplier. 'Just Compensation' has already been awarded and the same does not require any further enhancement and appeal be dismissed.

Having considered the rival contentions, this Court is of the considered view that the Tribunal has rightly taken income of the deceased to be ₹7500/- per month because as per certificate Ex.P-6, the income of the deceased was ₹15,000/- per month. However, the Tribunal had rightly come of the conclusion that salary certificate Ex.P-6 cannot be taken as a gospel truth and the certificate Ex.P-6 is not such a document which cannot be dis-believed. Rather in the case in hand, there is nothing by way of evidence that any amount was being deducted from the salary of deceased on account of his Provident Fund or ESI etc. There is also no material or evidence available on the file that the account books were being regularly maintained by the employer of Maninder Singh. However, the Tribunal while taking a reasonable view of the matter correctly assessed the income of the deceased to be ₹7500/- and there are no grounds to come to a different conclusion.

As regard to the plea taken by learned counsel for the appellants that correct multiplier has not been taken in this case, I have duly considered the view point taken by this Court in cases of **Rajneesh and another (supra)** and **Poonam and others (supra)**. However, identical matter had gone before Hon'ble the Apex Court in case of **New India Assurance Company Ltd. Vs. Smt. Shanti Pathak and others** 2007(3) RCR (Civil) 593 and Hon'ble Supreme Court laid down the law that in case claimants being father and mother, the age of the claimants is to be taken for grant of compensation and for applying multiplier in the case. The Tribunal in its award has rightly placed reliance upon judgment of Hon'ble Supreme Court in case of **Shakti Devi Vs. New India Insurance Company Limited and another**, 2010 (4) RCR (Civil) 950 (SC). Hence, the Tribunal has rightly applied the multiplier so as to decide the amount of compensation.

However, the Tribunal has completely ignored the future prospectus of earnings of the deceased. Undisputedly, Maninder Singh is a young boy of 21 years and with the passage of time his income was bound to grow. As per law laid down by Hon'ble Supreme Court in case of **Smt. Sarla Verma (supra)**, future prospectus of income are to be taken into account. Since Maninder Singh was of the age of 21 years, the amount of compensation to be awarded is to be calculated after taking increase of 50% in his earnings. In the case in hand, the Tribunal has awarded a sum of ₹4,95,000/- on account of loss of income by applying multiplier of 11 and by making addition of 50% to the amount of compensation on account of future earnings, the amount comes to ₹7,42,500/- (₹4,95,000/- +₹2,47,500/-). The Tribunal has also not awarded adequate amount on account of transportation charges and last rites and the same are enhanced from ₹10,000/- to ₹25,000/- in this case and the total compensation amount comes to ₹7,67,500/- (₹7,42,000/-+₹25,000/-). The other terms regarding interest etc. shall remain the same.

The appeal is partly allowed in the aforesaid terms.

(SHEKHER DHAWAN)
JUDGE

March 12, 2015
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