IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

FAO No. 2235 of 2013(O&M)

Date of Decision: August 10 , 2015.

Shakuntla and others

...... APPELLANT (s)

Versus

Jai Bhagwan and others

...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. K.S.Dhanora, Advocate
for the appellants.

None appears for respondent No.1 despite service.

Mr. Ram Tilak Redhu, DAG Haryana
for respondent No.2 and 3.

Mr. Pardeep Goel, Advocate
for respondent No.4 – Insurance Company.

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1. Whether reporters of 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?

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LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of the compensation awarded by the Motor Accident Claims Tribunal, Hisar (hereinafter referred to as the 'Tribunal') on account of death of Shiv Singh son of Mann Singh in an accident caused by a Haryana Roadways bus on

06.06.2011. Appellant No.1 Shakuntla is the widow of deceased, appellants No.2 to 8 are their children.

Learned counsel for the appellants submits that the appellants are entitled to a much higher amount of compensation than awarded by the learned Tribunal. Deduction of 1/3rd of the income has been wrongly applied in view of eight dependants of the deceased being there. No amount has been awarded on account of loss of consortium, loss of love and affection and a meagre amount is granted for the last rites of the deceased. He prays for appropriate enhancement of the compensation awarded.

There is no dispute regarding the accident in question being caused due to rash and negligent driving of the offending bus by respondent No.1 or the liability of the Insurance Company in this case.

Learned Tribunal on considering the facts and circumstances of the case as well as the evidence on record has taken the age of the deceased to be 40 years on the basis of the post-mortem report Ex.P4. His income has been fixed as ₹4,500/- per month. Deduction of 1/3rd has been effected. Annual dependency has been calculated at ₹36,000/-. Multiplier of '15' has been applied. Amount of compensation was calculated at ₹5,40,000/-. On account of last rites ₹6,000/- has been awarded. Total amount of compensation being ₹5,46,000/- has been awarded by the learned Tribunal.

Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another**, ***2009(3) RCR (Civil) 77*** has crystalized the position as regards the deduction to be made and the choice of multiplier amongst other things. In respect to deduction towards personal and living expenses of the deceased it has been specifically observed:-

> "14. Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra, the general practice is to apply standardized deductions. Having considered several subsequent decisions of this court, we are of the view that where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependant family members is 4 to 6, and one-fifth (1/5th) where the number of dependant family members exceed six."

Hon'ble Supreme Court in **Jitendra Khimshankar Trivedi and others v. KASAM DAUD KUMBHAR and others**, ***(2015) 4 SCC 237*** has reiterated its earlier dictum in **Rajesh and others v. Rajbir Singh and others,** ***2013(3) RCR(Civil)170(SC)*** that a sum of ₹1,00,000/- be awarded on account of loss of consortium. Funeral expenses to the tune of ₹25,000/- in the absence of evidence to the contrary for higher expenses, have been held to be just, fair and equitable in Rajbir's case (supra).

Learned counsel for respondents fairly accepts that the deduction in the present case should be $1/5^{th}$ keeping in view the number of dependents i.e., eight. Learned counsel for the appellant does not dispute the assessment of income of the deceased at ₹4,500/- per month. The amount of compensation is accordingly reworked as under:-

Income of the deceased	₹4,500/- p.m.
Income after applying deduction of $1/5^{th}$ on account of personal expenses	₹3,600/- p.m.
Annual dependency (3600x12)	₹4,32,000/-
Compensation (3600x12x15)	₹6,48,000/-

Loss of consortium	₹1,00,000/-
Loss of love and affection @ ₹25,000/- per child (25000x7)	₹1,75,000/-
Funeral expenses	₹25,000/-
Total =	**₹9,48,000/-**

The amount of compensation i.e., ₹5,46,000/- already awarded to the appellants shall stand deducted from the amount calculated as above. Appellant shall be entitled to interest at the rate of 7.5 per cent per annum from the date of filing of the petition till realization.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants shall enure.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

(LISA GILL)
JUDGE

August 10 , 2015.
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