IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2417 of 2013 (O&M)
Date of Decision:21.09.2015

Smt. Savita and others

….Appellants

Versus

Satpal and others

….Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

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

Mr. Arun Sharma, Advocate for
Mr. T.K. Joshi, Advocate for respondent No.3-
Shri Ram General Insurance Company.

NAVITA SINGH, J.

1. This appeal is preferred against the award passed on 20.11.2012 by Motor Accident Claims Tribunal, Narnaul, (Tribunal for short) granting compensation to the tune of Rs.7,05,000/- to the appellants for the death of Deepak, who died as a result of accident, which occurred on 17.7.2010.

2. The deceased was stated to be 23 years old and was allegedly earning Rs.12,500/- per month i.e. Rs.7500/- as salary by working as a computer teacher in a school and Rs.5000/- from agriculture.

3. Counsel for the appellant argued that the Tribunal wrongly applied the multiplier of 15 whereas according to the age of the deceased, multiplier of 18 should have been applied. This fact is not disputed by the other side. Also nothing was awarded towards loss of love and affection and the amount is to be assessed on that count, which fact is also not disputed. It is fairly conceded by the counsel for the appellants for funeral and last rites etc., an amount of Rs.25,000/- should have been awarded whereas the Tribunal awarded Rs.20,000/-. Also an amount of Rs.10,000/- was given towards loss of

consortium, which was erroneously given as the deceased was unmarried. Therefore, out of the compensation already awarded, an amount of Rs.15,000/- is required to be reduced.

4. It is, therefore, ordered that an amount of Rs.15,000/- shall be deducted from the original amount and an amount of Rs.1,00,000/- would be added on account of loss of love and affection. The difference enhancement would, therefore, be Rs.85,000/- at this stage.

5. Counsel for the appellant argued that the deceased was holding a Diploma in Computer Application and was working as a Computer Teacher in a school. Copy of his one year Certificate in Basic Computer Application Diploma was produced as Ex.PW2/B in evidence. However, father of the deceased stated that his son was drawing Rs.7500/- as monthly salary. Name of the school was given in the appeal. No document from the school concerned regarding salary was produced. Though it is not possible that the deceased was paid salary by any school without any documentary proof, yet an amount of Rs.7500/- as salary is acceptable because no cross examination at all was conducted on the father of the deceased on that aspect. Also, an amount of Rs.7500/- is not on the higher side for a teacher to earn in 2010. This part is also not disputed by counsel for the Insurance Company.

6. The next and last argument on behalf of the appellant was that 50% of the salary should have been calculated in the income towards loss of future prospects because in view of Munna Lal Jain and another Vs. Vipin Kumar Sharma and others 2015 AIR (SCW) 3105, it is no more requirement that the deceased should be in permanent employment or should be a Government employee etc.

7. Counsel for the Insurance Company, however, disputed the addition of 50% towards future prospects stating that the deceased has not even proved

to be doing a job much less than permanent one. Also the view taken by the Supreme Court in Rajesh and others Vs. Rajbir Singh and others 2013 (9) SCC 54 having not been finalized due to a reference to a larger Bench, the point has not been set at rest and, therefore, nothing should be awarded towards future prospects.

8. It may be pointed out here that the contention of the counsel for the appellants for adding 50% in the initial income towards future prospects and then deducting half as the deceased was bachelor, would not hold good. The deceased was likely to get married soon as his age according to counsel for the appellants was 25 years and in that event he would have contributed half for his parents out of his income and would have contributed rest towards his own family.

9. So far as Munna Lal Jain (supra) is concerned, the same may not be applicable in view of the fact that the matter stood referred to larger bench in Rajesh and others (supra). Also in National Insurance Company Ltd. Vs. Pushpa and others (SLP No.8058 of 2014 decided on 2.7.2014), Shashikala and others Vs. Gangalakshmamma and another, the Supreme Court referred the matter to larger bench for deciding the point regarding addition of future prospects to the annual income. It was also mentioned that Rajesh and others (supra) stood referred to a larger bench. Since reference has been made in different cases to larger bench for finally deciding the point regarding grant of future prospects, it would not be advisable to grant the same now because in case a divergent view is received from the Supreme Court later on, it will not be possible for the Insurance Company to make recovery. Also in Pushpa's case (supra), the Supreme Court had stayed recovery of the amount beyond Rs.20,00,000/- as stay had been prayed for by the Insurance Company on account of future prospects.

10. The compensation already awarded is, therefore, enhanced by Rs.85,000/-. The rate of interest on the enhanced amount shall be 6% per annum.

11. The appeal is disposed of in the above terms.

(NAVITA SINGH)
JUDGE

21.09.2015
Ishwar

Whether to be referred to reporter: Yes