IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2684-2013
(MACT case No.151 dated 9.8.2012)
Date of decision: 24.8.2015

Dheeraj Kumar Gill

...Appellant

Versus

Pritam Singh and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.PK Kataria, Advocate for the claimant-appellant

Mr.Arun Sharma, Advocate for
Mr.TK Joshi, Advocate
for respondent No.3-Insurance Company

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SNEH PRASHAR, J.

The present appeal has been filed by the claimant-appellant, seeking enhancement of the compensation amount awarded by learned Motor Accident Claims Tribunal, Jind (for short 'the Tribunal'), vide award dated 18.12.2012, on account of the death of his wife Manjinder due to the injuries sustained by her in a road side accident.

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

It is submitted by learned counsel for the appellant that the multiplier of 17 should have been applied to the annual dependency worked out of the appellant as the deceased was 27 years of age at the time of her death. No amount has been awarded towards loss of consortium and funeral expenses. He further submitted that the deduction to the extent of 1/2 towards the personal expenses of the deceased is contrary to the law laid down by Hon'ble Supreme Court in **2010 ACJ 2161 titled as Arun Kumar Agrawal and another vs. National Insurance Co. ltd and others.**

Admittedly, Manjinder died due to the injuries sustained by her in the road side accident. As per her matriculation certificate Ex.P17, her date of birth is 12.10.1984, which means on the date of accident she was 27 years aged.

In **Arun Kumar Agrawal and another's case (supra)** the Apex Court held that though, Section 163A does not, in terms apply to the cases in which claim for compensation is filed under Section 166 of the Act, in the absence of any other definite criteria for determination of compensation payable to the dependents of a non-earning housewife/ mother, it would be reasonable to rely upon the criteria specified in clause (6) of the Second Schedule and then apply appropriate multiplier. In the case in hand, the deceased was a housewife. She had no children and the sole claimant is her husband. Considering the education and other circumstances of the family of the deceased, learned Tribunal assessed the income of the deceased as Rs.5000/- per month, which is held to be adequate. As the deceased was 27 years of age at the time of her death, therefore, in view of law laid down by Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77** multiplier of 17 and deduction of 1/3rd should be taken.

However, in addition to the compensation under loss of dependency, an amount of Rs.50,000/- is awarded to the claimant-appellant on account of loss of consortium and Rs.25,000/- is allowed on account of funeral expenses.

Accordingly, the total compensation comes to Rs.7,55,000/- i.e. Rs.5000 (monthly income) -1/3rd (deduction towards personal expenses) x 12 x 17 (multiplier) + Rs.75,000 (loss of consortium, and funeral expenses). The balance enhanced compensation of Rs.2,75,000/- (7,55,000- 4,80,000/- already awarded) shall be paid to the claimant-appellant within a period of 45 days from the date of the receipt of the certified copy of the judgment, failing which, the same shall carry 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.

24.8.2015 **(SNEH PRASHAR)**
gsv **JUDGE**