IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-3405-2013 (O&M)
Date of Decision: May 25, 2015

Surinder Kaur and others

.....Appellants

Versus

Gurpreet Singh and others

......Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.Sahil Abhi, Advocate
for the appellants.

Mr.Anil Kumar Garg, Advocate
for respondent Nos.1 and 2.

Ms.Deepshikha Chauhan, Advocate for
Mr.Ram Kumar Saini, Advocate
for respondent No.2A.

Mr.Pardeep Kumar, Advocate
for respondent No.3.

....

1. Whether Reporters of local papers may be allowed to see the judgment ? yes
2. To be referred to the Reporters or not ? yes
3. Whether the judgment should be reported in the Digest? yes

<u>Naresh Kumar Sanghi, J.</u>(Oral)

Present appeal has been filed by Surinder Kaur - widow, Lakhwinder Singh- son, Sukhvir Singh- son, Jagdish Singh- minor son and Aman Kaur -minor daughter of Charan

Singh (since deceased) for modifying the award dated 06.05.2013, passed by learned Motor Accidents Claims Tribunal, Patiala (for brevity,`the learned Tribunal'), and for awarding adequate compensation to them (appellants).

Learned counsel for the appellants contends that Charan Singh (since deceased) was 38 years old at the time of his death, therefore, learned Tribunal should have applied multiplier of 15 instead of 10; there were as many as five dependents and hence the learned Tribunal has wrongly deducted 1/3rd of the monthly income of Charan Singh (since deceased) on account of his personal expenses. In view of **Sarla Verma** vs **Delhi Transport Corporation**, 2009(3) R.C.R. (Civil) 77 and **Rajesh and others vs Rajbir Singh and** others, (2013) 9 SCC 54, the deduction for personal expenses should be 1/4th; learned Tribunal has awarded ₹5,000/- (Rupees five thousand only) each for consortium and funeral expenses which is also against the settled norms; he also pointed out that the claim petition was filed by the minor daughter and the minor son in addition to two major sons and the widow and learned Tribunal has failed to award the adequate amount for `love and affection' to the minor son and the minor daughter. It was also submitted that the interest awarded @ 7.5% was also on the lower side.

Learned counsel for the respondents have not controverted the submissions of the learned counsel for the appellants except that the adequate interest has already been awarded.

I have heard the learned counsel for the parties and with their able assistance gone through the material available on record.

Since the factum of accident and the negligence on the part of Gurpreet Singh (respondent No.1) while driving Balero Camper DX bearing registration No.PB-13N-4686 (for brevity, `the offending vehicle') are not in dispute, therefore, this Court does not deem it fit to discuss the said issues. Learned Tribunal while assessing the compensation to be awarded to the claimant-appellants held that Charan Singh (since deceased) was 38 years of age at the time of his death; monthly income of Charan Singh (since deceased) was assessed as ₹6000/- (Rupees six thousand only); 1/3rd monthly income was deducted for personal expenses of Charan Singh (since deceased); multiplier of 10 was applied; ₹5,000/- (Rupees five thousand only) was awarded for consortium and equal amount was awarded for funeral expenses and the total amount of ₹4,90,000/- (Rupees four lacs and ninety thousand only) along with interest @ 7.5% per annum from the date of filing of the claim petition till realization was awarded in favour of the claimant-appellants

As per **<u>Sarla Verma</u>**'s case (supra) and **<u>Rajesh's</u>** case (supra), Hon'ble the Superme Court held that if the deceased is between 35 to 40 years of age at the time of his death, then the proper multiplier should be of `15'. It was further held that where the dependents on the deceased are between 4 to 6, then 1/4th monthly income should be deducted for personal expenses. It was further held in **<u>Rajesh's</u>** case (supra) that ₹1,00,000/-(Rupees one lac only) should be awarded to the spouse of the deceased for `consortium' and ₹1,00,000/- (Rupees one lac only) each to the minor children of the deceased for `love and affection'. If the dependency of the appellant-claimants is assessed keeping in view the said principles, then they (appellants) shall be entitled to the amount as per the calculations made hereunder:-

Since the Tribunal has held that Charan Singh (since deceased) was earning ₹6,000/- (Rupees six thousand only) per month, the same is taken as it is. If it is multiplied by 12, then the annual income of Charan Singh (since deceased) would be

₹72,000/- (Rupees seventy two thousand only). If 1/4th is deducted for personal expenses, then the annual dependency would arrive at ₹54,000/- (Rupees fifty four thousand only). If it is multiplied by 15, then the figure would arrive at ₹8,10,000/- (Rupees eight lacs and ten thousand only). ₹1,00,000/- (Rupees one lac only) can be awarded for `consortium' to appellant No.1-Surinder Kaur (widow). Jagdish Singh and Aman Kaur, the minor son and the minor daughter respectively, are also awarded ₹1,00,000/- (Rupees one lac only) each for `love and affection'. The funeral expenses are enhanced to ₹25,000/- (Rupees twenty five thousand only). Hence, the total compensation would arrive at ₹11,35,000/- (Rupees eleven lacs and thirty five thousand only), which is also shown in the table below:-

Sr.No.	Heads	% / fraction / multiplier applied	Detail of calculation	Amount (in ₹)
(A)	(B)	(C)	(D)	(E)
1	Income of the deceased		Per month	₹6,000.00
2	Less income tax, if payable		Per month	0
3	Net income of the deceased		Per month	₹6,000.00
4	Future prospects	0%	of 3(E)	0
5	Monthly income after adding future prospects		3(E) + 4(E)	₹6,000.00
6	Income from Agriculture		Per month	0

7	Total		5(E) + 6(E)	₹6,000.00
8	Monthly personal expenses of the deceased	1/4	of 7(E)	₹1,500.00
9	Net dependency (per month)		7(E) -8(E)	₹4,500.00
10	Multiplier to be applied	15		
11	Compensation after applying the multiplier		9(E) X 12 X 10(C)	₹8,10,000.00
12	Loss of consortium			₹1,00,000.00
13	Love, Care and Affection		100000 x 2	₹2,00,000.00
14	Funeral expenses			₹25,000.00
15	Any other expenses to be specified			0
16	Total Compensation awarded			₹11,35,000.00

There also appears to be substance in the submissions of the learned counsel for the claimant-appellants when he submitted that the interest awarded @ 7.5% was also on the lower side. In the matters of **Neeta and others** **vs** **Divisional Manager, Maharashtra State Road Transport Corporation**, 2015 ACJ 598, and **Jitendra Khim Shankar Trivedi** **vs** **Kasam Daud Kumbhar**, 2015 ACJ 708, Hon'ble the Supreme Court has awarded interest @ 9% per annum. Therefore, it is held that the claimants are entitled to interest @ 9% per annum on the amount awarded by this Court from the date of filing of claim petition till realization.

The amount already paid by the Insurance Company shall be deducted from the enhanced amount. The primary liability of paying the amount shall be of respondent No.3-Insurance Company. The amount awarded by this Court along with interest shall be disbursed to the claimant-appellants as per the directions of the learned Tribunal. However, the Insurance Company shall be entitled to recover the awarded amount from respondent No.2, i.e. owner of the offending vehicle, if so deposited by it.

No other point has been raised.

The appeal is allowed partly.

May 25, 2015 **(NARESH KUMAR SANGHI)**
meenu **JUDGE**