IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO NO. 2166 OF 2014 (O&M)
DECIDED ON : 21.07.2015

Santra and others
...Appellants

versus

Vikram Singh and others
...Respondents

CORAM : HON'BLE MR. JUSTICE K. C. PURI

Present : Mr. Hardeep Singh Dhillon, Advocate for
Mr. Vikram Singh, Advocate,
for the appellants.

Mr. Arun Sharma, Advocate for
Mr. T. K. Joshi, Advocate,
for respondent No.3.

K. C. PURI, J. (ORAL)

CM NO. 7778 OF 2014

There is delay of 116 days in filing the appeal. The same stands condoned for the reasons mentioned in the application.

MAIN CASE

This is an appeal directed by the widow, three children and mother of deceased Mahender who died in a motor vehicular accident which took place on 23.07.2011. The claimants/ appellants filed claim petition under Section 166 of the Motor Vehicles Act (in short "the Act") seeking compensation to the tune of ₹30 lacs.

The Tribunal, after adjudication, allowed a sum of ₹4,35,800/-. The income of deceased has been taken as ₹4200/- per month. The deduction has been made to the extent of 1/4th in respect of personal expenses. After deducting 1/4th, the monthly dependency comes to ₹3150/-. The yearly dependency comes to ₹37,800/- (3150 x 12). The age of deceased has been assessed as 51 years. The multiplier of 11 was applied and the amount of compensation calculated was ₹4,15,800/-. Another sum of ₹10,000/- was allowed in respect of consortium. Another sum of ₹10,000/- was allowed in respect of expenses on last rites. In this manner, the total amount of ₹4,35,800/- was allowed as compensation to the claimants. Now the claimants have directed this appeal for enhancement of compensation.

Learned counsel for the appellants has submitted that income of the deceased as ₹4200/- per month is on lower side. The deceased was earning ₹10,000/- per month by working in brick klin as Clerk. The claimant-widow of deceased herself stepped into the witness box as PW-3 and pleaded that income of the deceased was ₹15,000/- per month, but her bald statement has not been supported by any evidence. The other witness produced by the claimant is PW-5 Ishwar Singh who has deposed that the deceased was working as Clerk in brick klin on a monthly salary of ₹10,000/- but his statement has been disbelieved by the Tribunal on the ground that he is not owner of the brick klin and his brother was the owner of the brick klin. No supporting evidence has been produced by the claimants. In these circumstances, the income of ₹4200/- per month in the year 2011 cannot be said to be on lower side.

The other contention raised by learned counsel for the appellants is that the deceased was 51 years of age and 15% amount should be added in respect of future prospects in view of authorities ***"Rajesh and others v. Rajbir Singh and others" 2012 (2) Apex Court Judgments 245 (SC)*** and ***Civil Appeal No. 4497 of 2015 decided on 15.05.2015 titled as "Munna Lal Jain and another vs Vipan Kumar Sharma and others".*** He has further submitted that the amount in respect of consortium and funeral expenses is also on lower side. No amount in respect of loss of love and affection has been allowed by the Tribunal.

Learned counsel for the Insurance Company has supported the Award passed by the Tribunal and has submitted that the amount of compensation is adequate. It is further submitted that future prospects cannot be allowed as matter is already pending before the larger Bench of Hon'ble Apex Court.

I have heard learned counsel for the parties and have gone through the records of the case.

The first point for determination in this case is whether future prospects are to be taken into consideration or not. The answer to that question has been given by the recent authorities of Hon'ble Apex Court in ***Rajesh and others' case (supra)*** and

Munna Lal Jain and another's case(supra). It has been held by the Hon'ble Apex Court in these authorities that future prospects have to be given. So, in view of the above said authorities, 15% amount has to be added in respect of future prospects. So, by adding 15%, the income of deceased comes to ₹4830/- per month. The Tribunal has rightly deducted 1/4th in respect of personal expenses keeping in view authority ***"Sarla Verma and others vs. Delhi Transport Corporation and anr." 2009 (3) RCR (Civil) 77.*** So, by deducting 1/4th in respect of personal expenses, the monthly dependency comes to ₹3622.50/-. The yearly dependency comes to ₹43,470/-. The multiplier of 11 has been rightly applied by the Tribunal keeping in view ***Sarla Verma and others' case (supra)*** as the age of deceased was 51 years. So, by applying that multiplier, the amount of compensation comes to ₹4,78,170/-. The claimants are also held entitle to claim ₹20,000/- in respect of expenses on last rites and transportation. Keeping in view the price index of the year 2011, another sum of ₹75000/- stands allowed in respect of consortium. There are three minor claimants. So another sum of ₹75,000/- stands allowed in respect of loss of love and affection in view of ***Rajesh and others' case (supra).*** In this manner, the claimants are held entitle to claim ₹6,48,170/- say ₹6,48,200/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of application till its payment. Out of the enhanced amount, a sum of ₹1,00,000/-

shall be paid to the widow and the remaining amount shall be shared by the remaining claimants in equal shares. The share of minors shall be kept in the shape of FDR with a nationalised bank in such a manner that it should get maximum rate of interest.

Disposed of.

JULY 21, 2015 **(K. C. PURI)**
shalini **JUDGE**