IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4265 of 2013 (O&M)
Date of Decision: February 27, 2015

Sitara Begum and others

...Appellant(s)

Versus

Bhuri Singh and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE ANITA CHAUDHRY

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

Present: Mr. S.N. Gaur, Advocate
for the appellants.

Mr. D.K. Prajapati, Advocate
for Mr. R.S. Madan, Advocate
for respondent no.3.

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ANITA CHAUDHRY, J.

1. This is the claimants' appeal seeking modification of the award dated 09.01.2013, passed by the Motor Accident Claims Tribunal, Faridabad (here-in-after referred to as the Tribunal). They also seek enhancement of the compensation allowed to them for the death of Naeem Khan son of appellants no.1 & 2 and brother of appellants no.3 to 7.

2. It would be useful to refer to the facts first. Naeem Khan was 22 years old and was stated to be working at a chemist shop in Faridabad. He died in a vehicular accident on 13.01.2012. The claimants were unable to establish that the

deceased was working at the chemist shop and his income was taken at Rs.4,500/- per month and giving an increase of 30% while relying upon the decision in ***Santosh Devi Vs. National Insurance Co. Ltd. 2012(2) RCR (Civil) 882***, the computation was made taking the annual income at Rs.70,200/-. The multiplier of 13 was applied keeping the age of the parents. A specific finding was recorded that only the mother was entitled to the compensation. It was noted that the claimants had intentionally given a different age in the affidavit to mislead the Tribunal with a view to claim an exaggerated amount. While apportioning the compensation, the Tribunal allowed a major amount to the mother and the rest was distributed amongst other claimants in the ratio detailed in paragraph no.38 of the award.

3. The submission on behalf of the appellants was that in the case of unmarried son where the minimum wages are taken, there should be an addition of 50% towards future prospects and multiplier should be based considering the age of the deceased and not the age of the parents and the Tribunal had committed a serious error in applying the multiplier of 13 and appropriate multiplier should be 18. It was urged that on issue no.2, the mother alone was held to be entitled to compensation but while apportioning the compensation, all the claimants had been granted compensation and in that case, the deduction on personal expenses should not have been 50% and they were entitled to

higher amount for loss of estate and funeral expenses. Reliance was placed upon ***Amrit Bhanu Shali and others Vs. National Insurance Co. Ltd. and others 2012 ACJ 2002 and M. Mansoor and another Vs. United India Insurance Co. Ltd. 2013 ACJ 2849***.

4. Supporting the judgment, it was urged that the claimants failed to lead evidence to show that the deceased was working at the chemist shop or was earning Rs.8,000/- per month and the oral statement was rightly rejected. It was urged that in the case of an unmarried son, it is the mother alone who is entitled to compensation and there appears to be error while apportioning the compensation and the appellants cannot be heard saying that deduction should be 1/10th. It was urged that the multiplier considering the age of the parents was rightly applied as it is their age which is relevant. It was contended that the appellants had intentionally included the younger brothers and sisters as claimants as an advantage and the entire family could not be dependent upon 22 years old boy in the presence of the father and the Tribunal had noted that a higher age was given while submitting the affidavit and it did not tally with the age given in the claim petition.

5. In ***Sarla Verma and others Vs. Delhi Transport Corporation and another 2009(3) RCR (Civil) 77***, the Hon'ble Supreme Court had considered the fact that where the deceased was a bachelor, the father was likely to have his

own income and could not be considered as a dependent and the mother alone shall be entitled to compensation and the brothers & sisters could not be considered as dependents. The Tribunal had noted that the father was 52 years old and was not suffering from any ailment and was capable of looking-after the family and the mother was rightly held to be entitled to the compensation. The compensation should have been awarded only to the mother and it appears to have escaped the notice of the Tribunal and there is an error and is corrected. The mother alone was entitled to the compensation.

6. The minimum wages in Haryana in 2012 were Rs.4,836/- per month. Since the minimum wages are being taken, therefore, an addition of 50% had to be made and the addition towards future prospects of Rs.2,418/- would raise the income to Rs.7,254/- per month. Deducting 50% towards personal expenses, the contribution for the mother would come to Rs.3,627/- and annual contribution would come to Rs.43,524/-. The multiplier should be as per the age of the parents as per the latest judgment of Hon'ble Apex Court reported as ***Ashvinbhai Jayantilal Modi vs. Ram Karan Ramchander, 2014(4) RCR(Civil) 543 (SC),*** there the deceased was 19 years old and multiplier considering the age of the parents was applied.

7. Calculating the compensation by applying the multiplier of 13, the compensation would come to

Rs.5,65,812/-. An addition of Rs.15,000/- should be made as funeral expenses and Rs.25,000/- for loss of estate; raising the total to Rs.6,05,812/-. The Tribunal had allowed Rs.5,06,700/- which would be deducted and the amount would be payable to appellant no.1 within two months, failing which the appellant would be entitled to interest @ 6% from the date of filing of appeal till realization.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

February 27, 2015
sunil