IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 4183 of 2014 (O&M)
Date of decision: September 29, 2015

RAJWATI & ANOTHER

.....APPELLANTS

VERSUS

SHIVJI RAM @ SHEOJI RAM & OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

1. Whether the Reporters of the Local papers may be allowed to see the judgment?
2. To be referred to the Reporters or?
3. Whether the judgment should be reported in the digest?

Present:- Mr. A.K. Yadav, Advocate
for the appellants

Mr. Amit Kundra, Advocate
for respondent No.3-Insurance Company

<u>JASPAL SINGH, J</u>

<u>CM No. 12248 -CII of 2014</u>

In view of averments made in the application, the same is allowed and delay in filing the instant appeal is condoned.

<u>FAO No. 4183 of 2014</u>

Dissatisfied with the award dated August 13, 2013 passed by

Motor Accident Claims Tribunal, Rewari on account of untimely death of Bijender in a vehicular accident on October 18, 2010 at about 3.30 PM in the area of Circular Road, Rewari involving Truck No. HR-55-A-4372 driven by respondent No.1-Shivji Ram @ Sheoji Ram, the unfortunate mother has filed the instant appeal seeking enhancement of compensation.

2. Though claim petition filed by parents of the deceased-Bijender but his father-appellant No.2 breathed his last during the pendency of proceedings. A glance at the afore-said award transpires that learned Tribunal has assessed the income of deceased to the tune of ₹4800/- per month, allowed deduction to the extent of 50% in consideration to the expenses which the victim would have incurred towards maintaining himself, had he been alive; adopted a multiplier of 9 keeping in view the age of parents of the deceased in the age group of 50 to 60 years and assessed the loss of dependency to the tune of ₹2,59,200/-. Apart from this a sum of ₹3000/- was awarded on account of funeral expenses and making total compensation to the tune of ₹2,62, 200/-.

3. The learned counsel for the appellant has assailed the impugned award while ebulliently arguing that multiplier adopted by learned Tribunal is on lower side and is not in consonance with the ratio laid down in ***Smt. Sarla Verma & others v. Delhi Transport Corporation and another;*** ***2009***

(3) RCR (Civil) 77. In fact, age of the deceased is the determining factor in regard to the multiplier to be adopted and not the parents of the deceased. In view of ratio laid down in ***Reshma Kumari & others v. Madan Mohan & another;*** ***2013 (2) RCR (Civil) 660*** wherein, the Hon'ble Apex Court has also taken into consideration the judgment passed in ***New India Assurance Company Ltd. v. Shanti Pathak (Smt.) and others;*** ***(2007)10 SCC (1)*** and has categorically observed that age of the deceased should be taken into consideration while adopting the multiplier for computing the loss of dependency. Even similar observation has been made by Hon'ble Apex Court in the case of ***Munna Lal Jain and another v. Vipin Kumar Sharma & others;*** ***2015 (3) RAJ 459.***

4. It has further been argued by learned counsel for the appellant that only a meagre sum of ₹3000/- has been awarded on account of funeral expenses, which ought to have been awarded to the tune of ₹25,000/-, in view of ratio laid down in ***Smt. Sarla Verma's case (supra)***. No compensation has also been awarded by learned Tribunal on account of loss of love and affection to the parents which should have been atleast to the tune of ₹1,00,000/-. Similarly, no compensation has also been awarded on account of future prospects, which should have been assessed, determined and awarded by learned Tribunal to the extent of 50% of his income,

keeping in view of the age of deceased. Interest awarded by learned Tribunal on the awarded amount is also on the lower side. Thus the amount so awarded by learned Tribunal cannot be termed to be just and adequate compensation and it deserves to be enhanced.

5. On the other hand learned counsel for respondent No.3 has submitted that there is no error, infirmity or illegality in the findings recorded by learned Tribunal. The compensation so awarded by learned Tribunal is just and adequate and has been awarded keeping in view all the factors required to be taken into consideration for determining the compensation. Moreover, so far as the award of compensation on account of future prospects is concerned, the matter is pending before larger Bench in view of the reference made in Special Leave Petition (Civil)-8058 of 2014 titled ***New India Insurance Co. Ltd. v. Pushpa and others***. The claimant is not entitled to compensation on this ground. Since, there is no infirmity or illegality in the impugned award; appeal is liable to be dismissed.

6. After bestowing due consideration to the rival submissions made by learned counsel for the parties and perusal of impugned award as well as other evidence available on file, this Court is of the considered view that amount of compensation awarded through impugned award deserves to be enhanced, which otherwise cannot be termed to be just and proper.

7. In the case in hand, an unmarried young boy of the age of 24 years has lost his life in a vehicular accident on October 18, 2010. The learned Tribunal has assessed his income to the tune ₹4800/- per month and has rightly applied deduction to the extent of 50% as he is only survived by his parents. The learned Tribunal has only adopted the multiplier of 9, keeping in view the age of parents of the deceased in the age group of 50 to 60 years but taking into consideration the ratio laid down in **Reshma Kumari's case (supra)** and **New India Assurance Company's Ltd case (supra)** as well as **Munna Lal Jain and another's case (supra),** the learned Tribunal should have applied the multiplier of 18, keeping in view of the age of deceased. As regards the plea of pendency of matter before the larger Bench for the grant of compensation on account of future prospects, observation made in the case of ***Rajesh and others v. Rajbir Singh & others; (2013) 3 RCR (Civil) 170*** holds the field till the same is modified or reversed. Thus, the compensation awarded by learned Tribunal can neither be termed to be just nor adequate and deserves to be enhanced. Interest is also deserves to be enhanced.

8. According, claimant shall be entitled to enhanced compensation as under:-

1.	Income assessed	₹4800.00/- p.m.
2	Future prospects (50% of the income assessed)	₹2400/-
3	Total income (₹4800/-+ ₹2400/-)	₹7200/-p.m.
4	Deduction to the extent of 50% towards personal expenses	₹3600/- p.m.
5	Annual dependency (₹3600x12)	₹43,200/-
6	Multiplier of 18 (₹3600x12x18)	₹7,77,600/-
7	Funeral Expenses	₹25,000/-
8	Loss of love and affection	₹1,00,000/-
9	Total compensation	₹9,02,600/-

9. Thus, the claimant shall be entitled to enhanced amount of compensation to the tune of ₹9,02,600/-, as against the sum of ₹2,62,200/-. Meaning thereby, claimant shall be entitled to enhanced compensation to the tune of ₹6,40,400/- (₹9,02,600/- - ₹2,62,200/-) The enhanced amount shall be payable by respondent No.3-Insurance Company within two months from the date of receipt of certified copy of this order. On failure to make the payment within prescribed period of two months, the claimant shall be entitled to interest @ ₹7.5% per annum from the date of institution of claim petition till its realisation.

(JASPAL SINGH)
JUDGE

SEPTEMBER 29, 2014
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