220 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.4857 of 2013 (O&M)
Date of decision:23.02.2015

CHAMPA DEVI AND OTHERS .... Appellants

VERSUS

AMAR CHAND AND OTHERS .... Respondents

CORAM: HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN

Present: Mr. Ishan Singh Cooner, Advocate
for the appellants.

Mr. Amit Jaiswal, Advocate
for respondent No.1.

Mr. M. B. Jain, Advocate
for respondent No.3.

MAHAVIR S. CHAUHAN J. (ORAL)

This is a claimant's appeal to seek modification of award dated 18.12.2012 whereby learned Motor Accident Claims Tribunal, Patiala (for short "the Tribunal") has awarded compensation amounting to Rs.5,86,000/- on proof of death of Jaswant Singh (for brevity-'the deceased'), driver by profession, aged about 30-35 years, earning Rs.6000/- per month, in a motor vehicle accident caused at about 8.45 p.m. on 30.12.2010 on account of rash and negligent driving of a tractor trolley bearing registration No.HR-01D-8255 by respondent Amar Chand. The application for compensation was moved alleging loss of dependancy as the deceased was stated to be the only bread winner of the family.

The application was contested by the respondents.

When pleadings of the parties were complete, learned Tribunal identified following issues from the pleadings of the parties:-

1. *Whether Sh. Jaswant Singh son of Sh. Kesho Ram had died in motor vehicular accident caused by respondent No.1 Amar Chand while driving Sawraj 735 Tractor Trolley bearing registration No.HR-01D-8255 rashly and negligently on 13.12.2010 at about 08.45 p.m. near cremation ground and Ravi Dass Mandir of village Tasroli Tehsil Naraingarh District Ambala on Kakar Majra to Dhanana road? OPP*
2. *If issue No.1 is proved, whether the claimants are entitled to compensation, if yes to what extent and from whom? OPR*
3. *Whether respondent No.1 was not holding a valid and effective driving licence at the time of accident? OPR-3*
4. *Relief.*

Both the sides adduced evidence and were heard by the learned Tribunal to reach a conclusion that the claimants were able to prove factum and manner of occurrence as also their entitlement to compensation. The claim application was, accordingly, allowed as hereinbefore stated.

I have heard learned counsel for the parties.

Learned counsel for the appellants argues that selection of the multiplier is on the lower side while compensation granted for funeral expenses and loss of consortium etc. is far from being sufficient and no compensation has been awarded for loss of love and affection and loss of estate. The contention, however, is resisted on behalf of the respondent No.1 saying that the appellants are not entitled to anything beyond what has been awarded by the learned Tribunal.

Learned counsel for respondent No.3-insurer also submits that nothing can be added to the assessed income of the deceased on account of future prospects as he was not in regular employment.

Nothing more has been urged.

Factum and manner of occurrence, age of the deceased and assessment as regards his income are not in dispute. Income of the deceased having been assessed at Rs.6000/- per month and number of dependents left behind by him being five, 1/4th of Rs.6000/- has to be deducted from the assessed income of the deceased as expenditure of the deceased upon himself. It brings loss of dependency to Rs.4500/- per month and to it an amount of Rs.2250/- is to be added towards future prospects. It brings loss of dependancy to Rs.6750/- per month or say Rs.81,000/- per annum. In view of "***Sarla Verma Vs. Delhi Transport Corportion, 2009(3) RCR (Civil) 77***", a multiplier of 16 has to be applied as the deceased was in the age group of 33-35 years. By applying multiplier of 16, compensation on account of loss of dependency comes to Rs.12,96,000/-. In addition thereto, appellant-Champa Devi is entitled to a compensation amounting to Rs. one lakh on account of loss of consortium. Other appellants are entitled to another amount of Rs. one lakh on account of loss of love and affection. Rs.5,000/- has to be awarded towards loss of estate and

Rs.25,000/- as expenditure on last rites of deceased. So calculated, total compensation payable to the applicants-appellants comes to Rs.15,26,000/-. There is no reason in sight to deny this compensation to the appellants.

As regards the contention raised on behalf of the insurer with regard to the future prospects, suffice it to say that even if the deceased is taken to be a daily wage earner, it is a fact that in future his wages were liable to be enhanced in view of ever increasing prices in the market and as such the appellants cannot be denied compensation on account of loss of future prospects also.

Consequently, the appeal is allowed and compensation awarded to the appellants is enhanced from Rs.5,86,000/- to Rs.15,26,000/-.

The amount of compensation as hereinbefore stated shall be inclusive of the amount of compensation awarded by the learned Tribunal. Other terms of the award shall remain unchanged. The appellants shall also be entitled to the costs of this appeal which are assessed at Rs.2200/-.

The appeal is disposed of in the aforesaid terms.

(MAHAVIR S. CHAUHAN)
JUDGE

February 23, 2015
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