IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO NO. 5275 OF 2013 (O&M)
DECIDED ON : 14.07.2015

Ranjana Arora

...Appellant

versus

Devi Dayal and others

...Respondents

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

Present : Mr. Munish Bhardwaj, Advocate,
for the appellants.

Mr. Nikunj Dhawan, Advocate for
Mr. Harsh Aggarwal, Advocate,
for the respondents.

K. C. PURI, J. (ORAL)

This is an appeal directed by the mother of deceased Nikhil Arora @ Manav Arora against the Award dated 16.08.2013 passed by Shri Harjinder Pal Singh, Motor Accident Claims Tribunal, Jalandhar, vide which the claim petition seeking compensation on account of death of minor aged about 09 years in a motor vehicular accident, was partly accepted.

The Tribunal has taken the notional income of deceased as ₹3000/- per month. The annual income of deceased has been taken as ₹36,000/- (3000 x 12). The multiplier of 14 has been applied by the Tribunal. In this manner, a sum of ₹5,04,000/- has been awarded as compensation. Another sum of ₹10,000/- has been allowed in respect of loss of estate and another sum of ₹5000/- has been allowed in respect of funeral expenses. In this manner, a total sum of ₹5,19,000/- has been awarded as compensation.

The mother of minor namely Nikhil Arora @ Manav Arora (deceased) has preferred this appeal for enhancement of compensation.

Learned counsel for the appellant has submitted that husband of the claimant has already died. The claimant is suffering from 65% permanent disability on account of post polio residual paralysis left lower limb as per disability certificate Exhibit P-2. It is further submitted that the amount granted in respect of funeral expenses and loss of estate is on lower side. It is further contended that income of the deceased is taken on lower side. It is further contended that in authority ***"Sarla Verma and others vs. Delhi Transport Corporation and anr." 2009 (3) RCR (Civil) 77,*** it has been held that where the deceased is bachelor, the deduction should be 50% in respect of personal expenses but in special cases, it has been restricted to 1/3rd and contribution to the family is taken as 2/3rd of his income. So, the present case is a special case as the claimant is suffering from 65% permanent disability.

Learned counsel for the Insurance Company has supported the Award passed by the Tribunal and has submitted that the amount of compensation is adequate.

I have considered the submissions made by both the sides and have gone through the records of case.

I am of the view that in normal circumstances, the amount of ₹5,19,000/- in respect of death of minor aged about 09 years cannot be said to be on lower side but the facts of present case are distinguishable. In this case, the claimant is suffering from 65% permanent disability, as per disability certificate Exhibit P2 on account of post polio residual paralysis left lower limb. So, keeping in view the special circumstances of the case, the appellant is held entitle to claim ₹7 lacs in respect of death of her minor son. Another sum of ₹1 lac stands allowed in respect of loss of love and affection. ₹25,000/- also stands allowed in respect of expenses on last rites and transportation of dead body. In this manner, the appellant/claimant is held entitle to claim ₹8,25,000/- as compensation. The enhanced amount shall carry interest @ 7.5% per annum from the date of filing the application till its payment. The liability to pay the amount shall remain the same as ordered by the Tribunal.

JULY 14, 2015 **(K. C. PURI)**
shalini **JUDGE**