IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-5465-2013
Date of Decision: April 9, 2015

Smt. Paramjit Kaur and another
...Appellants
Versus
Harish Kumar and others
...Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Ms. Amandeep Kaur, Advocate,
for Mr. Ashwani Arora, Advocate,
for the appellants.

Mr. Suvir Dewan, Advocate,
for respondent No. 2.

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

NARESH KUMAR SANGHI, J (Oral)

The present appeal has been filed by widow and son of Atma Ram (since deceased), challenging the award dated 8.1.2013, passed by learned Motor Accidents Claims Tribunal, Chandigarh (for brevity, 'the Tribunal'), on account of inadequacy of the compensation awarded to them (appellants).

Learned counsel for the appellants submits that though Atma Ram (since deceased) was earning much more from his cloth business, yet learned Tribunal has assessed his monthly income as

Rs. 4,000/- (Rupees four thousand). Without disputing the said fact, she submits that learned Tribunal has failed to add 15% of the monthly income of Atma Ram (since deceased) under the head 'future prospects'. In support of her contention, learned counsel has placed reliance upon a 3-Judge Bench judgment of Hon'ble the Supreme Court in the case of **Rajesh and others v. Rajbir Singh and others, (2013) 9 SCC 54**. She further submitted that a meagre sum of Rs. 5,000/- (Rupees five thousand) has been awarded under the head 'consortium' against the settled norm of Rs. 1,00,000/- (Rupees one lac). In this regard, she has referred to another judgment of Hon'ble the Supreme Court delivered in the case of **Vimal Kanwar and others v. Kishore Das and others, (2013) 7 SCC 476**. She further submitted that only Rs. 10,000/- (Rupees ten thousand) have been awarded against the settled norm of Rs.25,000/- (Rupees twenty-five thousand) for funeral expenses.

On the other hand, learned counsel for respondent No. 2, National Insurance Company Limited, very fairly conceded that in view of the judgment passed by Hon'ble the Supreme Court in the matter of **Vimal Kanwar (supra)**, appellant No. 1, Smt. Paramjit Kaur, who is widow of Atma Ram (since deceased) can be awarded Rs. 1,00,000/- (Rupees one lac) under the head 'consortium' and Rs. 25,000/- (Rupees twenty-five thousand) for 'funeral expenses'. He further submits that adequate compensation has already been awarded to the appellant/claimants, therefore, there is no necessity to add 15% income as 'future prospects' in the monthly income of Atma Ram (since deceased). However, he admits that in 3-Judge Bench judgment in the case of **Rajesh and others (supra)**, Hon'ble the Supreme had laid down the criteria as to how much amount has to be added for 'future prospects' in the event of death of a person and as per the ratio of the said judgment, the appellants can be awarded 15% of the monthly income of the deceased as 'future prospects'.

I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

This appeal has been filed by the claimant/appellants for modification and enhancement of the amount of compensation awarded by learned Tribunal, whereas no appeal or cross-objections have been filed by the owner, driver and insurance company of the offending vehicle. Therefore, this Court does not deem it necessary to discuss other issues except the one relating to income of the deceased and dependency of the claimants.

In 3-Judge Bench judgment in the case of **Rajesh and others (supra)**, Hon'ble the Supreme Court has held that if a person between the age group of 55 – 60 years dies in a motor accident, then 15% of his income can be added in the monthly income while awarding the compensation. As per the findings of learned Tribunal, Atma Ram (since deceased) was earning Rs. 4,000/- per month and if 15% of his monthly income is calculated, the same comes to Rs. 600/- (Rupees six hundred), and after adding the said amount under the head 'future prospects' the monthly income of the deceased would be Rs.4,600/- (Rupees four-thousand and six hundred). Keeping in view the number of dependents and as per settled norms, fraction of 1/3rd has to be applied for calculating the monthly personal expenses of the deceased and the same would be Rs.1534/- (Rupees one thousand and thirty-four) after rounding off the figure. After deducting the personal expenses from the monthly income the net monthly dependency comes to Rs.3,066/- (Rs.4600 – Rs.1534 = Rs.3066). As per the aforementioned revised calculations, the annual dependency of the claimant/appellants comes to Rs. 36,792/- (Rupees thirty-six thousand and seven hundred and ninety-two) [Rs.3066 x 12months = Rs.36,792]. Atma Ram (since deceased) was 59 years old at the time of his death, therefore, multiplier of 9 has been applied by learned Tribunal as per the ratio of the judgment of Hon'ble the Supreme Court in the case of **Sarla Verma** **v.** **Delhi**

Transport Corporation, 2009 (3) R.C.R. (Civil) 77. Since, there is no dispute in this regard, therefore, after applying the multiplier of 9, the figure would arrive at Rs. 3,31,128/- (Rupees three lacs and thirty-one thousand and one hundred and twenty-eight) [Rs.36,792/- X 9 = Rs.3,31,128/-].

Keeping in view the facts and circumstances of the case, this Court is of the opinion that Rs. 5,000/- (Rupees five thousand) awarded by the Tribunal under the head 'consortium' is on lower side and, as such, the same is enhanced to Rs. 1,00,000/- (Rupees one lac). Rs. 10,000/- (Rupees ten thousand) awarded by learned Tribunal for 'funeral expenses' also appears to be on lower side and, as such, the claimant/appellants are held entitled to Rs. 25,000/- (Rupees twenty-five thousand) under this head.

Perusal of the award passed by learned Tribunal reveals that the claimant/appellants were also awarded a sum of Rs.1,57,437/- (Rupees one lac and fifty-seven thousand and four hundred and thirty-seven) on account of medical bills (Exs. P-6 to P-115) and Rs.5,000/- (Rupees five thousand) as 'loss of estate'. On a specific query by this Court with regard to grant of 'loss of estate', learned counsel for the appellants was not able to give any satisfactory reply. This Court is of the considered view that no such amount can be awarded to the claimant/appellants under the head of 'loss of estate'. No appeal or cross-objections against the impugned award passed by learned Tribunal in the present case has been filed by the respondents. Being the Appellate Court and in exercise of the power under the provisions enshrined under Order XLI Rule 33 of the Code of Civil Procedure, 1908, this Court can pass any further order which ought to have been passed or made. However, the finding of learned Tribunal with regard to awarding the amount to the tune of Rs. 1,57,437/-, incurred by the claimant/appellants on medical bills is upheld.

Thus, the claimant/appellants are held entitled to the compensation as per the calculations made in the following table:

Sr. No.	**Heads**	**Detail of calculation**	**Amount (in Rs.)**
(A)	**(B)**	**(C)**	**(D)**
1	Assessed monthly income of the deceased		4000
2	Future prospects	15% of 1(D)	600
3	Monthly income after adding future prospects	1(D) + 2(D)	4600
4	Monthly personal expenses of the deceased	1/3rd of 3(D)	1534 (rounded)
5	Net dependency (per month)	3(D) -4(D)	3066
6	Annual dependency of claimant/appellants	5(D) X 12	36792
7	Multiplier applied	9	
8	Compensation after applying the multiplier	6(D) X 9	331128
9	Loss of consortium, payable to (Appellant No. 1/Widow, Smt. Paramjit Kaur)		100000
10	Funeral expenses		25000

11	On account of Medical Bills (Exs. P-6 to P-115)		157437
	Total Compensation	Sum of 8(D) to 11(D)	**613565**

As a sequel to the above, this appeal is partly allowed. A sum of Rs. 6,13,565/- (Rupees six lacs and thirteen thousand and five hundred and sixty-five only) is awarded as compensation to the claimant/appellants. Hon'ble the Supreme Court in the matter of **Neeta and others v. Divisional Manager, Maharashtra State Road Transport Corporation, 2015 ACJ 598**, and **Jitendra Khim Shankar Trivedi v. Kasam Daud Kumbhar, 2015 ACJ 708,** has awarded interest @ 9% per annum. Therefore, the claimant/ appellants would be entitled to interest @ 9% p.a. on the awarded amount from the date of filing of the claim petition till realization. The net amount after adding the component of interest and deducting the amount already paid, shall be disbursed to the to the claimant/appellants as per the directions passed by learned Tribunal.

(NARESH KUMAR SANGHI)
JUDGE

April 9, 2015
Pkapoor