IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5862 of 2013 (O&M)
Date of Order: 17.7.2015

Smt. Geeta and Ors.

....Appellants

Versus

Shiv Singh and Ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE K C PURI

Present: Mr. Ram Pal Verma, Advocate for the appellants.

None for respondent No.1.

Respondent No.2 ex parte.

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

K C PURI, J (ORAL)

C.M.No.24296-CII of 2013

For the reasons stated in the application, which is supported by an affidavit, the application is allowed. Delay of 143 days in filing the appeal is condoned.

C.M.No.24295-CII of 2013

For the reasons stated in the application, which is supported by an affidavit, the application is allowed. Delay of 100 days in re-filing the appeal is condoned.

Main Case

This appeal has been directed by Geeta (widow), three minor children and parents of Rajesh Kumar, who died in a motor vehicular accident on 23.12.2009 against the award dated 28.9.2012 passed by the learned Motor Accident Claims Tribunal, Sonepat. The amount claimed in the petition was Rs.25,00,000/- under Section 166 of the Motor Vehicles Act, 1988 (for short "1988 Act").

Learned Tribunal after adjudication accepted the claim petition partly and allowed a total sum of Rs.5,60,000/-. The monthly income of deceased was taken as Rs.4,000/- per month and after deducting 1/4th in respect of personal expenses of the deceased, the loss of dependency was assessed to Rs.3000/- per month. Multiplier of 15 was applied and the amount calculated towards total loss of dependency was/is Rs.5,40,000/-. Another sum of Rs.5000/- was awarded in respect of funeral and transportation expenses, Rs.7500/- were awarded as compensation for loss of estater whereas another sum of Rs.7500/- was allowed in respect of consortium. In this manner, the claimants were held entitled to total compensation of Rs.5,60,000/- along with interest at the rate of 7.5% per annum from the date of filing the petition till its realization. The claimants have directed the present appeal for enhancement of compensation.

I have heard learned counsel for the parties and have perused the case file thoroughly.

The income of the deceased has been rightly taken as Rs.4000/- per month, however, future prospects have not been taken into account. Deceased was more than 35 years and in view of the law laid down by Hon'ble Supreme Court in its Authority reported as ***Rajesh and others v. Rajbir Singh and others" 2012 (2) Apex Court Judgments 245 (SC),*** 50% amount has to be added in respect of future prospects. So, the income of the deceased after adding 50% amount comes to Rs.4500/-. Claimants are six in number, therefore, in view of Authority in **Sarla Verma and Others Vs. Delhi Transport Corporation and another 2009 (3) RCR (Civil) 77,** dependency has to be calculated by deducting 1-4th towards personal expenses, thus the total loss of dependency of the claimants comes to Rs.3375/- per month and yearly dependancy comes to Rs.40,500/-. The multiplier applicable at the age of 35 is 15. By applying the multiplier of 15, the amount of compensation comes to Rs.6,48,000/-. The accident had taken place in 2009, as such an amount of Rs.15000/- stands allowed in respect of expenses on last rites and transportation. The claimant-widow is held entitled to Rs.50,000/- in respect of consortium whereas minor claimants are held entitled to claim Rs.50,000/- on account of love and affection. In this manner, the claimants are held entitled to claim Rs.7,63,000/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of application till its payment. Out of the enhanced amount of compensation, Rs.1 lac shall be paid to the widow and the remaining amount shall be equally shared by the remaining claimants. The liability to pay the amount shall remain the same as ordered by the Tribunal.

July 17, 2015 **(K C PURI)**
manoj **JUDGE**