IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-5873-2013
Date of decision: 6.10.2015

Tara Devi and another

...Appellants

Versus

Bitto and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Ishan Cooner, Advocate for the appellants

None for respondents No.1 & 2

Mr.Lalit Garg, Advocate for respondent No.3.

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SNEH PRASHAR, J.

The claimants-appellants challenged the award dated 07.01.2013 passed by learned Motor Accident Claims Tribunal, Panchkula (for short 'the Tribunal') for enhancement of the compensation awarded to them on account of death of their son namely Tarlok Singh in a road side accident.

The submissions made by learned counsel for the parties have been considered and record perused.

The arguments raised by learned counsel for the claimants-appellants are that (i) the multiplier should have been applied as per the age of the deceased; (ii) no future prospects have been awarded; (iii) no amount has been awarded towards loss of love and affection and (iv) the amount awarded towards funeral and last rites is on the lower side.

On the other hand, learned counsel representing the respondent No.3- Insurance Company submitted that just and adequate compensation has been awarded by learned Tribunal. He cited **New India Assurance Company Ltd. vs. Smt. Shanti Pathak and others 2007(3) RCR (Civil) 593.**

Admittedly, Tarlok Singh died due to the injuries suffered by him in a road side accident. He was 26 years of age and was bachelor at the time of death. As per Ex.P3, Income Tax Return submitted by the deceased before his death, he was earning Rs.1,34,650/- per annum. Perusal of the award shows that no amount has been awarded towards future prospects. In **Rajesh and others vs. Rajbir Singh and others 2013 (9) SCC 54**, in para 11, the Hon'ble Supreme Court has held as under:

> "11. Since, the Court in Santosh Devi's case (supra) actually intended to follow the principle in the case of salaried persons as laid in Sarla Verma's case (supra) and to make it applicable also to the self employed and person on fixed wages, it is clarified that the increase in the case of those groups is not 30% always; it will also have a

reference to the age. In other words, in the case of self employed or persons of fixed wages, in case, the deceased victim was below 40 years, there must be an addition of 50% to the actual income of the deceased while computing future prospects. Needless to say that the actual income should be income after paying the tax, if any. Addition should be 30% in case the deceased was in the age group of 40 to 50 years."

Thus, keeping in view the age of the deceased, addition of 50% towards future prospects deserves to be allowed to the claimants-appellants.

Regarding applying of suitable multiplier, in **Reshma Kumari and others vs. Madan Mohan and another 2013(2) RCR (Civil) 660**, Full Bench of Hon'ble Supreme Court has held as under:-

33. We have already noticed the table prepared in Sarla Verma for the selection of multiplier. The table has been prepared in Sarla Verma having regard to the three decisions of this Court, namely, Susamma Thomas, Trilok Chandra and Charlie for the claims made under Section 166 of the 1988 Act. The Court said that multiplier shown in Column (4) of the table must be used having regard to the age of the deceased. Perhaps the

biggest advantage by employing the table prepared in Sarla Verma is that the uniformity and consistency in selection of the multiplier can be achieved. The assessment of extent of dependency depends on examination of the unique situation of the individual case. Valuing the dependency or the multiplicand is to some extent an arithmetical exercise. The multiplicand is normally based on the net annual value of the dependency on the date of the deceased’s death. Once the net annual loss (multiplicand) is assessed, taking into account the age of the deceased, such amount is to be multiplied by a ‘multiplier’ to arrive at the loss of dependency. In Sarla Verma, this Court has endeavoured to simplify the otherwise complex exercise of assessment of loss of dependency and determination of compensation in a claim made under Section 166. It has been rightly stated in Sarla Verma that claimants in case of death claim for the purposes of compensation must establish (a) age of the deceased; (b) income of the deceased; and (c) the number of dependants. To arrive at the loss of dependency, the Tribunal must consider (i) additions/deductions to be made for arriving at the income; (ii) the deductions to be made towards the personal living expenses of the deceased; and (iii) the multiplier to be applied with reference to the age of the deceased. We do not think it is necessary for us to revisit the law on the point as we are in full agreement with the view in Sarla Verma.

In the end, the conclusions were drawn as under:-

"In what we have discussed above, we sum up our conclusions as follows:

(i) In the applications for compensation made under Section 166 of the 1988 Act in death cases where the age of the deceased is 15 years and above, the Claims Tribunals shall select the multiplier as indicated in Column (4) of the table prepared in Sarla Verma read with para 42 of that judgment.

(ii) In cases where the age of the deceased is upto 15 years, irrespective of the Section 166 or Section 163A under which the claim for compensation has been made, multiplier of 15 and the assessment as indicated in the Second Schedule subject to correction as pointed out in Column (6) of the table in Sarla Verma should be followed.

(iii) As a result of the above, while considering the claim applications made under Section 166 in death cases where the age of the deceased is above 15 years, there is no necessity for the Claims Tribunals to seek guidance or for placing reliance on the Second Schedule in the 1988 Act.

(iv) The Claims Tribunals shall follow the steps and guidelines stated in para 19 of Sarla Verma for determination of compensation in cases of death.

(v) While making addition to income for future prospects, the Tribunals shall follow paragraph 24 of the Judgment in Sarla Verma.

(vi) Insofar as deduction for personal and living expenses is concerned, it is directed that the Tribunals shall ordinarily follow the standards prescribed in paragraphs 30, 31 and 32 of the judgment in Sarla Verma subject to the observations made by us in para 38 above.

(vii) The above propositions mutatis mutandis shall apply to all pending matters where above aspects are under consideration."

A similar view has been taken by Hon'ble Supreme Court in **Amrit Bhanu Shali and others vs. National Insuarance Co. Ltd. and others 2012 ACJ 2002.** In **Munna Lal Jain and anr. vs. Vipin Kumar Sharma and others (2015) 6 SCC 347** following Reshma Kumari's case it has been held as under:-

> "The remaining question is only on multiplier. The High Court following Santosh Devi (supra), has taken 13 as the multiplier. Whether the multiplier should depend on the age of the dependants or that of the deceased, has been hanging fire for sometime; but that has been given a quietus by another three-Judge Bench decision in Reshma Kumari (supra). It was held that the multiplier is to be used with reference to the age of the deceased. One reason appears to be that there is certainty with regard to the age of the deceased but as far as

that of dependants is concerned, there will always be room for dispute as to whether the age of the eldest or youngest or even the average, etc., is to be taken."

In the present case, the deceased was 26 years of age at the time of occurrence. Moreover, the Motor Vehicles Act, being a beneficial legislation, this Court also relies on **Reshma Kumari's case (supra)**, which is subsequent to the case law cited by learned counsel for the respondent-Insurance Company in **Smt. Shanti Pathak's case (supra)**. Thus, taking in to consideration the age of the deceased, the multiplier of 17 is the appropriate multiplier.

The amount awarded towards funeral expenses is enhanced from Rs.5,000/- to Rs.25,000/- and also a sum of Rs.20,000/- is allowed towards loss of love and affection to the mother.

Accordingly, the total compensation comes to Rs.17,61,787/- i.e. 1,34,650 (annual income) +50% (future prospects) - 1/2 (deduction towards personal expenses of the deceased) x 17 (multiplier) + Rs. 25,000 (funeral expenses) + Rs.20,000/- (towards loss of love and affection). The enhanced amount of Rs.8,71,562 /- (17,61,787- 8,90,225 already awarded by the Tribunal) shall be paid to the claimant-appellant No.1, who is the mother, within 45 days from the date of the receipt of the certified copy of this order, failing which, the same shall carry interest @ 7.5% per annum from the date of the filing of the present appeal, till its realisation.

Resultantly, the present appeal is partly allowed and the award is modified to the above extent.

6.10.2015 **(SNEH PRASHAR)**

gsv **JUDGE**