IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-5938-2013
Date of decision:- 12.10.2015

Nijri and others

...Appellants

Versus

Shokeen and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Ashish Gupta, Advocate for the appellants

Ms.Vandana Malhotra, Advocate
for respondent No.3- Insurance Co.

****

SNEH PRASHAR, J.

The instant appeal has been filed by the claimants-appellants seeking enhancement of the compensation awarded vide award dated 24.5.2013 by learned Motor Accident Claims Tribunal, Nuh (for short 'the Tribunal'), on account of the death of Azroo in a road side accident.

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

Learned counsel for the appellants raised the arguments that (i) the multiplier should have been applied according to the age of the deceased; (ii) no amount towards future prospects and loss of love and affection was allowed and (iii) the amount awarded towards funeral expenses is on the lower side.

On the other hand, learned counsel appearing for respondent No.3- Insurance Company resisted the prayer of the appellant.

There is no denial of the accidental death of Azroo, son of appellants No.1 and 2. He was 19 years of age and was unmarried at the time of his death. As regard appropriate multiplier, Hon'ble Supreme Court in **Munna Lal Jain and anr. vs. Vipin Kumar Sharma and others (2015) 6 SCC 347** has held that while calculating the compensation, the multiplier should be applied according to the age of the deceased and not to the age of dependents. Accordingly, the multiplier of 17 appears to be just and adequate. The deduction towards personal expenses to the extent of 1/2 has already been made by learned Tribunal, which is correct.

In **<u>Rajesh and others vs. Rajbir Singh and others 2013 (9) SCC 54</u>**, in para 11, the Hon'ble Supreme Court has observed 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."

In view of the above, the claimants-appellants are held entitled to an increase in the income of the deceased by 50% towards future prospects.

As no amount has been awarded towards loss of love and affection to the mother-appellant and a sum of Rs.20,000/- is allowed in this regard. The amount awarded towards funeral expenses i.e. Rs.5000/- appears to be on the lower side and therefore, the same is enhanced to Rs.25,000/-.

Accordingly, the total compensation comes to:- Rs.4200/- (monthly income) + 50% (future prospects) -1/2 (deduction towards personal expenses) x 12 x 17 (multiplier) + Rs.20,000 (loss of love and affection payable to the mother) +Rs.25,000/- (funeral expenses including already awarded) =Rs.6,87,600/-. The enhanced amount of Rs.3,55,000/- (6,87,600 -3,32,600) is not deposited by the Insurance Company within 45 days from the date of receipt of the certified copy of this judgment, the same shall carry interest @ 7.5 % per annum from the date of filing of the appeal till its realisation.

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

12.10.2015 **(SNEH PRASHAR)**
gsv **JUDGE**