IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No.716 of 2013 (O&M)
Date of Decision: 30.03.2015

Shakuntla Mehta and others

..... APPELLANTS

VERSUS

Triloki Nath @ Trilok Nath and another

..... RESPONDENTS

PRESENT: - Mr. Parminder Singh, Advocate for the appellants.

Mr. Sonia G. Singh, Advocate for respondent No.1.

Mr. Vinod Chaudhri, Advocate for respondent No.2.

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

1) Whether Reporters of the 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?

SHEKHER DHAWAN, J.

The claimants have challenged the award of Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal') dated 11.10.2012 whereby the Tribunal awarded a sum of ₹6,15,000/- on account of death of Shiv

Kumar.

Brief facts of the case that on 07.11.2010, Shiv Kumar along with his son Rohit Mehta was going on motor cycle bearing No.HR-05-Y-2016 and was pillion rider. The said motor cycle met with an accident with Maruti Car bearing registration No.HR-05AB-3051. The accident had taken place because of rash and negligent driving of driver of Maruti Car. Resultantly, Shiv Kumar sustained injuries. He was taken to hospital and later on succumbed to the injures.

As per claimants, Shiv Kumar was working as Electricity Contractor and was earning ₹15,000/- per month. A sum of ₹1,00,000/- was spent on treatment, transportation of the dead body.

The respondents contested the claim petition. 'The Tribunal' awarded a sum of ₹6,15,000/- as compensation.

Being dis-satisfied with the awarded amount, the claimants are in appeal before this Court.

Mr. Parminder Singh, learned counsel for the appellants mainly took the plea that the Tribunal had also observed in its order that Shiv Kumar was an income tax assessee and his income as per record of Income Tax Department was ₹2,20,000/- per annum. The same was proved as per statement of PW-1 Devender Arora. However, 'The Tribunal' fell in error while taking his only income to be ₹1,80,000/- per annum. However, the multiplier has been applied correctly keeping in view the age of the deceased. The appellants also seek enhancement on account of consortium as one of the claimants is widow of the deceased and a sum of ₹25,000/- on account of funeral expenses and transportation charges as per law laid down by Hon'ble Supreme Court in case of **Rajesh and others Vs. Rajbir Singh and others**, 2013(9) SCC 54.

While arguing on these points, Mr. Vinod Chaudhary, learned counsel for the respondent took the plea that 'The Tribunal' has already awarded 'just compensation' and there are no grounds of further enhancement.

Having considered the rival contentions raised by learned counsel for both the parties and taking the case from undisputed facts of the case, Shiv Kumar died because of motor vehicle accident. He was income tax assessee and his income is proved as per statement of PW-1 Devender Arora and as per income tax return for the year 2010-2011 Ex.P-3. However, the Tribunal while calculating the amount of compensation certainly fell in error while taking the income to be ₹1,80,000/-. There was no material or evidence available on file to assess the same otherwise.

Law was laid down that consortium must be assessed to be ₹1 lac in case deceased is survived by widow and funeral expenses must be assessed to ₹25,000/- on account of funeral expenses and transpiration expenses. Such a law was laid down in **Rajesh and others Vs. Rajbir Singh and others's case (supra).** However, the Tribunal did not consider the said law and no assessment was made under these heads.

Resultantly, the amount of compensation is re-assessed as under:

Annual Income	₹2,20,000/-x 5 multiplier ₹11,00,000/-
1/3 for personal expenses	₹3,66,000/-
Total loss of earnings	₹7,34,000/-
Consortium	₹1,00,000/-
Funeral and transportation expenses	₹25,000/-
Total	₹8,59,000/-
Awarded amount	₹6,15,000/-
Enhanced amount of compensation	₹2,44,000/-

The enhanced amount of compensation shall be payable within one month from today, failing which the appellants shall be entitled to interest @ 6% as awarded by the Tribunal. However, the remaining conditions regarding disbursal of amount and rate of interest shall remain unaltered.

The appeal is accordingly partly accepted.

(SHEKHER DHAWAN)
JUDGE

March 30, 2015
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