IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.717 of 2013(O&M)
Date of decision: 28.04.2015

Afasna and others ….Appellants

Versus

Shankar and others ….Respondents

CORAM: HON'BLE MR. JUSTICE K.C. PURI.

Present: Mr. Parminder Singh, Advocate
for the appellants.

Mr. Amit Jaiswal, Advocate
for respondents No.1 and 2.

Mr. Iklavya Darshi, Advocate
for respondent No.3.

K.C. PURI J. (Oral)

CM No.4566-CII of 2013

There is a delay of 316 days in filing the appeal. Three of the claimants are minor, one is widow and one is mother of the deceased Islam Khan.

So, the delay of 316 days in filing the appeal stands condoned on the grounds mentioned in the application.

MAIN CASE

Widow-Afsana, three minor children and mother-Shahidan, directed this appeal against the award dated 02.11.2011 passed by Sh. A.K. Bishnoi, Motor Accident Claims Tribunal, Karnal, for enhancement of compensation. The learned Tribunal after adjudication reached to the conclusion that Islam Khan-deceased died due to motor vehicular accident and accepted the claim petition. The income of the deceased was taken as Rs.4,000/- per month against the claim of Rs.10,000/- p.m. The annual income of the deceased has been taken as Rs.48,000/- (4,000 x 12). 1/4th amount was deducted in respect of personal expenses by relying upon the authority **"Smt. Sarla Verma and others vs. Delhi Transport Corporation and another"** reported in **2009(3) R.C.R. (Civil) 77**. The deceased was 37 years of age and the multiplier of 15 was applied and as such a sum of Rs.5,40,000/- was allowed in respect of death of Islam Khan in a motor vehicular accident. Another sum of Rs.10,000/- was allowed on account of transportation and Rs.10,000/- was allowed to Afsana on account of loss of consortium. The claimants have directed this appeal for enhancement.

Learned counsel for the appellant has submitted that the income of the deceased was Rs.10,000/- per month and he was working as Supervisor with Reliable Prefabricated Building System, New Delhi. However, this argument is devoid of any legal merit as no income proof has been produced on record stating that salary was actually Rs.10,000/- per month. So, the income of the deceased has rightly been taken as Rs.4,000/- per month.

The other argument advanced by learned counsel for the appellant is that future prospects have not been taken into account and in support of his arguments, he has relied upon the authority in **"Rajesh and others Vs. Rajbir Singh and others"** reported in **2013(3) R.C.R. (Civil) 170**. It is further submitted that the amount of consortium and expenses on last rites have been granted on lower side by the learned Tribunal. Learned counsel for the appellant has further submitted that no amount in respect of loss of love and affection has been granted. However, he has not disputed the deduction and multiplier.

On the other hand, learned counsel for the insurance company has supported the judgment of the Tribunal and has submitted that future prospects cannot be granted as deceased was not a permanent employee and the matter regarding future prospects is pending before the Larger Bench in Hon'ble Apex Court in ***"National Insurance Company Limited Vs Pushpa and others"*** vide **SLP No.8058/2014**.

I have heard the learned counsel for the parties and have gone through the case file and record carefully.

The question whether future prospects in respect of fixed salaried person or self-employed person can be allowed has been dealt in by this Court in ***"Balbir Kaur and others Vs. State of Haryana and others"*** in **FAO No.3903 of 2012,** decided on 15.01.2014, and has approved the Rajesh and others case (supra) and held that the future prospects has to be taken into account. The age of the deceased was 37 years and as such, future prospects to the extent of 50% has to be added for computing the compensation. So, the income of the deceased is taken as Rs.6,000/- per month by adding 50% of Rs.4,000/-. The dependents are five in number, so the dependency has to be taken by deducting 1/4th in respect of personal expenses. The monthly dependency comes to Rs.4,500/- and the yearly dependency comes to Rs.54000/-(4500 x 12). The multiplier of 15 has been rightly applied by the learned Tribunal. So, by applying that multiplier the amount of compensation comes to Rs.8,10,000/-. Another sum of Rs.1,00,000/- stands allowed in respect of loss of consortium. Rs.25,000/- stands allowed in respect of last rites and transportation. Since, there are three minors and as such, a sum of Rs.1,00,000/- stands allowed in respect of loss of love and affection. So, in this manner, the claimants are held entitled to claim Rs.10,35,000/-. The enhanced amount of Rs.4,70,000/- shall carry interest @ 7.5% per annum from the date of application till payment. The liability to pay the amount shall be same as ordered by the Tribunal. Out of the enhanced amount Rs.1,75,000/- shall be paid to the widow-Afsana and the remaining amount shall be paid to the remaining claimants in equal share. The share of the minors shall be deposited in the shape of FDRs in a nationalized bank in such a manner that the minors will get maximum rate of interest. However, the widow-Afsana is at liberty to apply before the Tribunal for grant of interest on the FDRs for proper education and maintenance of the minors, if she so desires.

Appeal stands disposed of, accordingly.

A copy of this order be sent to the Tribunal for compliance.

28.04.2015 **(K.C. PURI)**
yakub **JUDGE**