IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 992 of 2013 (O/M)
Date of decision : 25.3.2015

Smt. Asha Jain and others ..... Appellants

Versus

Kulwant Singh and others ...... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Pawan Kumar Gupta, Advocate, for the appellants.

Mr. Rohit Goswami, Advocate, for,
Mr. Sukhdarshan Singh, Advocate, for the respondents.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ? Yes
2. To be referred to the Reporter or not. Yes
3. Whether the judgment should be reported in the digest ? Yes

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KULDIP SINGH, J. (ORAL)

On 30.9.2010, at about 10:30/11:00 AM, Jitender Kumar Jain (since deceased), an advocate by profession, was going to the District Courts, Narnaul, on scooter bearing registration No. HR 35-A-6453. Near Industrial Training Institute for Boys, a truck bearing registration No. HR 13-G-7331 hit the scooter from the back side. The deceased fell down on the road and his head was crushed under the wheels of the truck. The deceased died at the spot. The occurrence was witnessed by his Munshi Ram Chander Saini and another advocate Vijender Kumar Sanghi. The police registered FIR No. 313 dated 30.9.2010 under Sections 279 and 304-A IPC at

Police Station City Narnaul. At the time of accident, respondent No. 1 was driving the offending truck.

It was claimed before the Motor Accident Claims Tribunal, Narnaul (in short 'the Tribunal') that the deceased was 37 years of age. The date of birth of the deceased was considered as 7.12.1972 as indicated in the income tax returns (Ex.P3 and Ex.P5) and the age of the deceased was considered as 37 years and 9 months at the time of his death. It was stated that he was practising for the last 10/12 years and was also a legal aid counsel for the last 2/3 years. He was also an agriculturist. His total income was Rs. 40,000/- per month. The claimants, who happen to be his widow, mother and minor children, filed the claim petition, seeking compensation to the tune of Rs. 1 crore alongwith interest @ 18% per annum.

Respondents No. 1 and 2 denied the accident. In the same breath, it was stated that if they are held liable, then the respondent No. 3 is to indemnify the liability of respondent No. 2 as the offending vehicle was insured with it. Respondent No. 3 took the usual pleas.

After framing of the issues and recording of the evidence, the Tribunal assessed the income of the deceased as Rs. 10,000/- per month. The Tribunal applied the multiplier of 13 and calculated the compensation at Rs. 11,70,000. Rs. 20,000/- on account of last rites and transportation of dead body and Rs. 10,000/- for loss of consortium were allowed. In this way, a compensation of Rs. 12,00,000/- alongwith interest @ 7.5% per annum from the date of claim petition till realization was awarded by the Tribunal.

The claimants being not satisfied with the award of the Tribunal have come up in appeal before this Court.

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

Learned counsel for the appellants has argued that the deceased was an advocate and the Tribunal erred in discarding the income tax returns (Ex.P3 and Ex.P5) for the Assessment Years 2009-10 and 2010-11. The perusal of the income tax returns show that these were filed on 20.7.2010 and 28.7.2010 i.e. within a span of eight days and that too at Behror in Rajasthan, whereas the deceased was practising in District Courts at Narnaul (Haryana) and there was no occasion to file the income tax returns at Rajasthan for the two assessment years within a span of eight days. Therefore, the income tax returns were rightly disbelieved by the Tribunal for assessing the income of the deceased.

I am of the view that in the absence of any proof of income, by way of guess work, the income of the deceased was correctly assessed by the Tribunal at Rs. 10,000/- per month. Since the deceased was aged about 37 years and 9 months of age, as per the authority of the Hon'ble Supreme Court in *Rajesh Versus Rajbir Singh,* (2013) 9 SCC 54 and *Santosh Devi Versus National*

Insurance Co. Ltd. (2012) 6 SCC 421, 50% future prospects are to be added and the total income of the deceased is assessed at Rs. 15,000/- per month, from which 1/4th i.e. Rs. 3,750 is to be deducted as personal expenses and the total income of the deceased comes to Rs. 11,250/- per month. Keeping in view the age of the deceased, the multiplier of 15 is to be applied, in place of 13 as applied by the Tribunal. The total amount of compensation comes to Rs. 11,250x12x15=Rs. 20,25,000/-. Rs. 1,00,000/- for loss of consortium and Rs. 1,00,000/- for loss of love and affection to the minors are also allowed. In place of Rs. 20,000/-, Rs. 25,000/- for last rites and ceremonies and transportation of the dead body are allowed. The total amount of compensation comes to Rs. 22,50,000/-. The enhanced compensation shall be paid with interest @ 7.5% per annum, as awarded by the Tribunal. The enhanced compensation shall be disbursed in terms of the award of the Tribunal.

Consequently, the present appeal is allowed.

(KULDIP SINGH)
JUDGE

25.3.2015
sjks