IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 8493 of 2014 (O&M)
Date of decision : 10.09.2015

Shakuntla and others .....Appellants

Versus

Kuldeep @ Solu @ Sonu and others ....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Ramender Chauhan, Advocate
for the appellants.

Ms. Vandana Malhotra, Advocate with
Ms. Monika Jangra, Advocate
for respondent No. 3.

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LISA GILL, J.

Present appeal has been preferred by the claimants praying for enhancement of compensation awarded by learned Motor Accident Claims Tribunal, Bhiwani (hereinafter referred to as 'Tribunal') vide award dated 04.07.2014 on account of death of Vipin. Claimants are parents and minor sisters of the deceased.

Facts as revealed in the claim petition are that Vipin (deceased) was returning home from a temple on 12.06.2013 at about 8.00/8.30 a.m. He signalled a Haryana Roadways bus to stop but in the meantime private bus bearing registration No. HR-61A-

6788 driven at high speed in a rash and negligent manner by respondent – Kuldeep came towards Vipin and struck against him. His right leg was crushed under the tyre of the above said private bus. Accident was witnessed by Sunil Kumar, father of Vipin. Driver stopped his bus at a little distance and was identified as Kuldeep @ Solu @ Sonu. He fled from the spot leaving the bus. Vipin was taken to PGIMS Rohtak by his father. He was taken to Life Care Hospital, Rohtak then Sai Sons ICU, HUDA Complex, Rohtak thereafter at Arora Hospital, Hisar and lastly to CMC Hisar. He, however, succumbed to his injuries on 02.07.2013. FIR No. 414 dated 12.06.2013 Ex.P2 was registered under Sections 279, 337, 304A IPC against respondent -Kuldeep at Police Station Sadar Bhiwani.

Instant claim petition was preferred under Section 166 of Motor Vehicles Act, 1988 claiming compensation to the tune of ₹50 lakhs on account of death of Vipin who was alleged to be 19 years old engaged in agricultural work, dairy farming as well as property dealing. He was stated to be earning ₹40,000/- per month from all sources. ₹16 lakhs was incurred on the treatment, medicines and transportation of the deceased.

Following issues were framed by the learned Tribunal :-

1. Whether accident causing the death of Vipin took place on 12.06.2013 due to rash and negligent driving of vehicle bus bearing registration No. HR-61A-6788 by respondent No. 1 Kuldeep @ Solu @ Sonu, as alleged? OPP.
2. If issue No. 1 is proved, whether claimants are entitled for compensation, if so, to what amount and from whom? OPP.

3. Whether respondent no. 1 was not having a valid driving licence at the time of accident? OPR-3
4. Relief.

Learned Tribunal on considering the entire facts and circumstances held that Vipin lost his life on account of injuries sustained by him in the accident which took place on 12.06.2013 due to rash and negligent driving of the offending bus by respondent – Kuldeep. Said finding has attained finality.

Total compensation of ₹8,86,689/- was awarded by the Tribunal to the appellant-parents. Claimants/appellants No. 3 and 4 being sisters of the deceased were not held entitled to any compensation. Income of the deceased was assessed at ₹6,200/- inclusive of the component of loss of future prospects. 50% deduction was effected and annual dependency was worked out at ₹37,200/-. Multiplier of 15 was applied keeping in view the age of the parents. Compensation was awarded as under:-

Loss of dependency	₹5,58,000/-
Funeral expenses	₹ 25,000/-
Medical expenses	₹2,88,689/-
Hospital charges	₹ 15,000/-
Total	₹8,86,689/-

Learned counsel for the appellant argues that loss of future prospects has not be afforded to the claimants. Multiplier in this case has been wrongly applied on the basis of the age of the parents. Nothing has been awarded on account of loss of love and affection to the parents. Learned counsel prays for enhancement of compensation awarded to the claimants.

Learned counsel for the respondent, on the contrary submits that no further enhancement is called for in this case. Component of future prospects has already been incorporated in the income assessed i.e. ₹6,200/- per month. Furthermore, multiplier has been correctly applied as per the age of the parent. It is not required that multiplier should be applied according to the age of the deceased in this case. Age of the deceased is, however, not disputed to be 19 years at the time of accident. It is informed that no appeal has been preferred by the insurance company qua the impugned award.

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

It is to be noted that there is no documentary evidence to show that deceased Vipin, aged 19 years, was earning any income on account of property dealing, engaging in agriculture or diary farming. Reliance was placed on the evidence of PW8 Navinder Kumar, who has deposed that Vipin was working with him in respect of sale and purchase of property from January 2013 till the date of accident i.e. 12.06.2013. This witness was, however, unable to produce any registration number or licence for doing the business of property dealing. No account books/record of the property with which they had dealt with or the amount they may have earned therefrom was placed on record. It is in these circumstances that the learned Tribunal assessed the monthly income of the deceased as ₹6,200/- while hedging in the component of future prospects.

Learned counsel for the appellant is unable to point out any evidence on record, which may justify any addition in the income so assessed by the Tribunal.

However, keeping in view the judgment of Hon'ble Supreme Court in ***Munna Lal Jain and others versus Vipin Kumar Sharma and others*** 2015 (6) SCC 347, it is a multiplier of 18 which should be applied in this case keeping in view the age of the deceased. The Tribunal has erred in applying the multiplier of 15 keeping in view the age of the parents. Deduction of 50% has been rightly effected keeping in view the dictum of ***Smt. Sarla Verma and others Versus Delhi Transport Corporation and another*** 2009 (3) RCR (Civil) 77, therefore, taking the monthly income of the deceased to be ₹6200/- inclusive of future prospects, a deduction of 50% is to be applied, deceased being a Bachelor i.e. ₹3100/- per month and ₹37,200/- per annum. Multiplier of 18 is applied. Loss of dependancy is, thus, assessed at ₹6,69,600/-. Parents are also entitled to loss of love and affection at the rate of ₹50,000/- each.

Learned counsel for the appellant has not pressed the claim qua the sisters of the deceased. Claimant-parents are, thus, entitled to enhanced compensation as detailed hereunder:-

Loss of dependency	₹6,69,600/-
Loss of love and affection (₹ 50,000/- each) to the parents	₹1,00,000/-
Funeral expenses	₹ 25,000/-
Medical expenses	₹2,88,689/-
Hospital charges	₹ 15,000/-
Total	**₹10,98,289/-**

Amount of compensation already awarded to the appellants shall stand deducted from the amount calculated as above. Appellant-parents are further entitled to interest at the rate of 7.5% per annum on the entire compensation instead of 6% per annum as awarded by the Tribunal from the date of filing of the petition till realization.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

(Lisa Gill)
September 10, 2015 **Judge**
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