IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.97 of 2014
Date of Decision: January 23, 2015

Dr. Versa Singh and another ...Appellants

Versus

Vinay Kumar and others ...Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. K.K. Goyal, Advocate for the appellants.

Mr. R.C. Kapoor, Advocate for respondent No.2.

FATEH DEEP SINGH, J.

The claimants holding themselves to be aggrieved over the findings of award dated 26.09.2013 of learned Motor Accident Claims Tribunal, Ambala whereby, they have been awarded compensation to the tune of ₹50,05,000/-along with interest have termed it to be unjust and unfair and sought enhancement of the same.

Heard. It was on 5.3.2008 Dr. Versa Singh now widow of deceased A.K. Singh along with her husband were going in a Honda City car No.HR-31B-8182 being driven by respondent No.1 Vinay Kumar rashly and negligently and in the area of Manka Manki on Ambala Jagadhri road due to rash and negligent driving their car hit a stationary truck, as a consequence of which, deceased received injuries leading to his death and which findings on issue No.1 have never been assailed of by any of the respondents and, thus, has attained finality.

The deceased as per the established case was aged around 45 years, working as a Head of Information Technology Deparrtment, M.M. Engineering College Mullana and earning ₹50,000/- per month as salary which is brought about by way of certificate Ex.P7 letter, Ex.P8 copy of salary register, Ex.P9 and certificate Ex.P10 and which could not be controverted in evidence by the respondents much less during the course of arguments before this Court. Though, as per the testimony of PW3 Mukesh Gupta carry home salary of the deceased was ₹25,388/- per month and which salary could have gone up to ₹1,50,000/- with future advancement in career graph, whereas, PW4 S.K. Ahluwalia by way of Ex.P11 form 16 of the income-tax has proved that the annual gross salary of the deceased was ₹6,00,000/-. In the totality of which the learned Tribunal has taken ₹50,000/- per month to be the real income of the deceased and after deducting income tax has considered carry home salary to be ₹40,000/- per month which is appropriate. The fact as has been pointed out during the course of arguments there is deduction of 1/3rd of these earnings on the own upkeep and maintenance of the deceased which is certainly not on the higher side. Keeping in view the socio-economic status and the number of dependants as the deceased has left behind a widowed mother besides a young wife and a minor son. In view of the law laid down in ***New India Assurance Company Limited vs. Gopali and others 2012 Vol III RCR (Civil) 818*** it is appropriate to have deducted 1/3 and, thus, the annual dependency of the claimants as well as respondent-mother comes to ₹3,20,000/-per annum. In view of the age of the deceased multiplier of 14 appears to be most appropriate in view of the law laid down in ***Smt. Sarla Verma and others vs. Delhi Transport Corporation and another 2009 (3) RCR (Civil) 77*** which has been rightly applied by the learned Tribunal. Thus, compensation comes to ₹44,80,000/-. Besides this the family must have spent money on the last rites and ceremonies of the deceased, a young widow has lost her husband, a son his father and ought to be compensated for the loss of love and affection, consortium and though not much has been brought about by way of evidence and the learned Tribunal has given mere pittance, thus, by some amount of guess work and hypothetical calculations a sum of ₹5,00,000/- is awarded under these heads. Besides this, as per the testimony of Versa Singh PW2 the deceased prior to his death for emergency treatment was taken to Radix hospital and thereafter shifted to PGIMER Chandigarh where he remained admitted from 6.3.2008 to 16.3.2008 and claimants have spent a sum of ₹5,00,000/- on his treatment and transportation but the learned Tribunal has merely on the grounds that no documentary proof has been brought on the records has declined the same. However, in view of the totality of the evidence and keeping in view the welfare nature of the Statute it cannot be refuted that after accident on 5.3.2008 the deceased had died on 16.3.2008 and thus for almost 11 days has remained under hospitalization and must have been given best of the treatment in view of the socio-economic status and it would be appropriate taking that claimants in all likelihood must have spent almost ₹50,000/- to ₹1,00,000/- on his treatment which is a reasonable amount and therefore by approximation total compensation comes between ₹45,000,00/- to ₹50,80,000/-. Thus, it ensues that the award of the Tribunal cannot be termed on the lower side and does not needs to be modified.

Since there is no medical proof and there is not much difference in the awarded amount and the one calculated by this Court thus nothing more needs to be awarded except that has already been awarded by the learned Tribunal which is just and fair. Thus, the appeal being without any merit stands dismissed.

(FATEH DEEP SINGH)
JUDGE

January 23, 2015
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