IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1492-2000
Date of decision: 26.5.2016

Tirath Kaur and another

...Appellants

Versus

Jaswant Singh and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.NK Suneja, Advocate for the appellants

Ms.Lavanya Paul, Assistant Advocate General, Punjab for respondents No.2 to 4

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SNEH PRASHAR, J.

The Claimants-appellants being parents of the deceased Sukhwinder Singh, who lost his life in a road side accident, have filed the present appeal seeking enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, Hoshiarpur (hereinafter referred to 'the Tribunal') vide award dated 27.11.1999 passed in MACT case no.30 of 2.6.1998.

The submissions made by Mr.NK Suneja, Advocate representing the appellants and Ms.Lavanya Paul, Assistant Advocate General, punjab for respondents No.2 to 4 have been heard and record perused.

Learned counsel for the appellants submitted that the deceased was 31 years aged and was employed as Cadet in Coast Guard with the Indian Armed Forces. Learned Tribunal applied the multiplier of 5 as per the age of the parents of the deceased, which is in contravention to the law laid down in **Munna Lal Jain and anr. vs. Vipin Kumar Sharma and others (2015) 6 SCC 347**. No amount was added to the actual income of the deceased computing future prospects. Also nothing was awarded on account of loss of love and affection, whereas a meager amount of Rs.3000/- was allowed on account of funeral expenses.

Deceased Sukhwinder Singh was a young man aged 31 years and was unmarried at the time of his death. He was serving as Cost Guard in Indian Armed Forces. Learned Tribunal assessed the income of the deceased as Rs.4300/- per month on the basis of his salary certificate proved in evidence by the appellants and the same calls for no intervention.

Regarding applying of suitable multiplier, it was held by Full Bench of Hon'ble Supreme Court in **Reshma Kumari and others vs. Madan Mohan and another 2013(2) RCR (Civil) 660** that the multiplier is to be applied with reference to the age of the deceased. A similar view has been taken by Hon'ble Supreme Court in **Amrit Bhanu Shali and others vs. National Insurance Co. Ltd. and others 2012 ACJ 2002**. In **Munna Lal Jain and anr. vs. Vipin Kumar Sharma and others (2015) 6 SCC 347** following **Reshma Kumari's case (supra)** it has been held as under:-

> "The remaining question is only on multiplier. The High Court following Santosh Devi (supra), has taken 13 as the multiplier. Whether the multiplier should depend on the age of the dependants or that of the deceased, has been hanging fire for sometime; but that has been given a quietus by

> another three-Judge Bench decision in Reshma Kumari (supra). It was held that the multiplier is to be used with reference to the age of the deceased. One reason appears to be that there is certainty with regard to the age of the deceased but as far as that of dependants is concerned, there will always be room for dispute as to whether the age of the eldest or youngest or even the average, etc., is to be taken."

In the present case, the deceased was 31 years aged and unmarried when he died during the accident. Following the law discussed above, it is held that learned Tribunal should have applied the multiplier as per the age of the deceased i.e. '16' instead of '5'. Since the deceased was bachelor, 50% deduction of his income on account of his personal and living expenses would be applicable.

The deceased being an official of Armed Forces had a secure and promising career ahead. Perusal of the award shows that no amount was added to the actual monthly income of the deceased computing future prospects. Following the ratio of **Sarla Verma and others vs. DTC and another 2009 ACJ 1298**, and considering the age of the deceased , there had to be an addition of 50% to the actual income of the deceased on account of loss of future prospects.

Perusal of the award shows that while awarding compensation under the conventional heads, no amount has been allowed towards loss of love and affection to the mother. Needless to say that the untimely death of a young son caused a grave shock to the mother, so a sum of Rs.50,000/- is allowed to her under the said head. Further the amount awarded on account of funeral expenses is enhanced from Rs.3000/- to to Rs.25,000/-.

Accordingly, the total compensation comes to Rs.6,94,200/- (4300 (monthly income) + 50% (future prospects) – 1/2 (deduction on account of personal and living expenses of the deceased) x 12 x 16 (multiplier) + 75000/- (amount under the conventional heads including already awarded). The enhanced amount of Rs.5,62,200/- (6,94,200-1,32,000) shall be paid to claimants/ appellants, within two months from the date of receipt of the certified copy of this judgment, failing which, the same shall carry interest @ 7.5 % per annum from the date of filing of the appeal till its realisation.

In view of the above, the present appeal is partly allowed and the award is modified to the above extent.

26.5.2016 **(SNEH PRASHAR)**
gsv **JUDGE**