IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1634-2000 (O&M)

Date of decision: 05.02.2016

S. D. Gulzar and another

...Appellants

Versus

Sukha Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Vivek Suri, Advocate for the appellants.

Ms. Vandana Malhotra, Advocate for respondent No.3.

Mr. Neeraj Khanna, Advocate for respondent Nos.5 & 6

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JITENDRA CHAUHAN, J.

This is claimants' appeal seeking enhancement of the amount of compensation awarded vide impugned award dated 07.09.1999, passed by the learned Motor Accident Claims Tribunal, Panipat (for short, 'the Tribunal').

The learned counsel for the appellants contends the amount awarded under the conventional head is on the lower side and deserves to be enhanced. He further states that the learned

Tribunal has erred in determining the multiplier on the basis of the age of the claimants-dependents in view of law laid down in ***Munna Lal Jain and anr. vs. Vipin Kumar Sharma and ors., 2015 (3) SCC (Civil) 315,*** rather the same ought to have been applied on the basis of the age of the deceased. On the other hand, the learned counsel for respondent No.3 states that as per law laid down by Hon'ble Supreme Court in ***New India Assurance Company Ltd vs Smt. Shanti Pathak And Ors,*** passed in Appeal (civil) 2926-2927 of 2007, the learned Tribunal has rightly applied the multiplier taking into consideration the age of the claimants-dependents.

I have heard the learned counsel for the parties and perused the record.

From the perusal of the award, it is noticed that the learned Tribunal did not award any compensation on account of the future prospects. It is not in dispute that the deceased was 26 years of age at the time of his death. However, the learned counsel for respondent No.3 states that without proving the income, the learned Tribunal has taken income of the deceased as Rs.5,000/- per month in the year 1993. This is to be seen that the deceased at the time of death was a member of the Bar and being a highly skilled and qualified person, he was competent enough to earn the amount assessed, which would have certainly increased considerably with the passage of time. Therefore, keeping in view the law laid down in ***Rajesh Vs. Rajbir Singh (SC), 2013(3) R.C.R. (Civil), 170***, an additional of 50% is ordered in the actual income of the deceased towards future prospects.

Further, keeping in view the age of the deceased, the multiplier of 17 deserves to be applied, in view of the judgments delivered by the Hon'ble Supreme Court in ***Sarla Verma vs. DTC 2009 (3) RCR (Civil) 77 and Munna Lal Jain and anr. vs. Vipin Kumar Sharma and ors., 2015 (3) SCC (Civil) 315,*** which is later in time.

In this way, the amount of compensation under the head of 'loss of dependency' comes to Rs.5,000/- + 50% X 12 X 17 X 1/2 = Rs.7,65,000/-, as against an amount of Rs.3,60,000/-, assessed by the learned Tribunal under this head.

Furthermore, nothing has been awarded towards loss of love and affection, therefore, following the law laid down in ***Vimal Kanwar and others Vs. Kishore Dan and others, (2013-3) PLR 776***, an amount of Rs.1,00,000/- is awarded towards loss of love and affection.

In view of the above, the claimant-appellants are held entitled to the enhanced compensation of Rs.5,05,000/-

[Rs.4,05,000/- (enhancement towards 'loss of dependency') + Rs.1,00,000/- (towards loss of love and affection)] as indicated above, in the manner prescribed in the impugned award, over and above the amount already awarded by the learned Tribunal, which shall be payable within a period of 45 days from the date of receipt of a certified copy of this judgment, failing which, they shall also be entitled to interest @ 7.5% per annum, from the date of filing the present appeal, till its realization.

With the aforesaid modification in the impugned award, the present appeal is partly allowed.

05.02.2016 **(JITENDRA CHAUHAN)**
ashok **JUDGE**