IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-3559-1999 (O&M)
Date of decision: 16.5.2016

Smt.Kitabo and another

...Appellants

Versus

Surender and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Ramesh Hooda, Advocate for the appellants

Mr.RM Suri, Advocate for respondent No.3

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SNEH PRASHAR, J.

The claimants-appellants being the parents of deceased Vinod, who lost his life in a road side accident that took place on 10.7.1997, filed the present appeal seeking enhancement of the compensation awarded to them by learned Motor Accident Claims Tribunal, Rohtak (for short 'the Tribunal') vide award dated 1.10.1999 passed in Claim Petition No.170 of 1997.

The submissions made by Mr.Ramesh Hooda, Advocate representing the appellants and Mr.RM Suri, Advocate for respondent No.3 have been heard and record perused.

Learned counsel for the appellants submitted that the deceased was a bachelor and was 23 years old. He was working as a cleaner on the jeep bearing registration No.HR-15/3437 and used to earn Rs.2000/- per month, but his income was taken as Rs.1500/- per month, which is on the lower side. Learned Tribunal applied the multiplier according to the age of the parents, which is in contravention to the law laid down in **Amrit Bhanu Shali and others vs. National Insurance Co. Ltd. 2012 (4) RCR (Civil) 343**, wherein it was held that the multiplier should be applied as per the age of the deceased. Nothing was added to the income computing the future prospects. Also the amount awarded under the conventional heads is inadequate.

On the other hand, learned counsel for respondent No.3 resisting the prayer of the appellants submitted that learned Tribunal has rightly applied the multiplier of 16 as per the age of the parents of the deceased as he was a bachelor. He further submitted that no amount should be added towards future prospects when the deceased was not in a permanent job and the deduction towards living and personal expenses of the deceased should be 50% of his earnings. To support of his arguments, he cited **New India Assurance Company Ltd. vs. Smt. Shanti Pathak and others 2007(3) RCR (Civil) 593.**

Undisputedly, Vinod, son of the appellants died due to the injuries sustained by him in a road side accident. He was aged 23 years and was a bachelor at the time of his death. Neither the owner of the jeep was examined nor any document was produced to prove that the deceased was employed as cleaner and was being paid Rs.2000/- per month as salary. In the absence of required substantive evidence, learned Tribunal assessed the income of the deceased as Rs.1500/- per month, which 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 my considered opinion, the law laid down in **Reshma Kumari's case (supra)** being later than the view taken in **Smt. Shanti Pathak's case (supra),** needs to be followed. In the present case, since the deceased was 23 years old at the time of occurrence, the multiplier of 18 has to be applied. Since the deceased was bachelor, 50% deduction of his income towards his personal and living expenses would be applicable.

Apparently, no addition was made to the actual income of the deceased computing future prospects. As per the law laid down in **Rajesh and others vs. Rajbir Singh and others, 2013(3) R.C.R. (Civil) 170** an addition of 50% to the actual income of the deceased computing future prospects is allowed.

Perusal of the award shows that nothing was allowed on account of loss of love and affection to the parents and also for funeral expenses. As such, a sum of Rs.50,000/- is allowed on account of loss of love and affection and Rs.25,000/- is allowed towards funeral expenses.

Accordingly, the total compensation comes to Rs.3,18,000/- i.e. Rs.1500/- (monthly income) + 50% (future prospects) -1/2 (deduction on account of personal and living expenses of the deceased) x 12 x 18 (multiplier) + Rs.75000/- (conventional heads). The enhanced compensation amount of Rs.2,52,000/- (3,18,000- 66000) shall be paid to the appellants within two months from the date of receipt of the certified copy of the judgment, failing which, it shall carry interest @ 7.5% per annum from the date of the filing of appeal till its realisation. Since, the Insurance Company was allowed right to recovery the amount from the owner of the offending vehicle, firstly the enhanced compensation shall be paid by the Insurance Company and then recover the same from the owner.

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

16.5.2016 **(SNEH PRASHAR)**
gsv **JUDGE**