IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 4079 of 2004 (O&M)
Date of Decision : 26.07.2016

Ritu A. Singhania and others ....Appellants

Versus

Siri Pal and others ....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sumeet Mahajan, Senior Advocate
with Ms. Ramneeq Kaur, Advocate
for the appellants.

Mr. Neeraj Khanna, Advocate
For respondent no. 3-Insurance Company.

Surinder Gupta, J.

On 21.11.2000, Ashok K. Singhania (later referred to as 'the deceased') was going in his car bearing registration no. PB-10-AA-9214 (Opal) with his driver Raj Bahadur from Ludhiana to Delhi. Kamal Kishore alongwith his younger brother was also going in his separate car bearing registration no. PB-10P-0918. When they reached bus-stand of village Rajinder Garh at about 10.30 p.m., truck bearing registration no. HR-47-3874 (later referred to as 'the offending vehicle') came from the side of Ludhiana and hit and crushed the car of deceased resulting in death of both the occupants i.e. Ashok K. Singhania and his driver Raj Bahadur. Kamal Kishore enquired about name of the driver of truck, who disclosed it as Siri Pal son of Isham Singh, and the matter was reported to the police at Police Station Mullepur, District Fatehgarh Sahib vide FIR No. 67 dated 21.11.2000.

2. Claimants, who are wife, children and parents of the deceased, have alleged that the deceased was 46 years of age and was working as

Director with M/s Madhav Marketing Pvt. Ltd. He was earning ₹40,000/- per month.

3. In their written statement driver and owner of the offending vehicle denied all the averments of claimants while Insurance Company took objection that respondents no. 1 and 2 have connived with claimants. It also denied averments of claimants regarding the accident.

4. The Tribunal held that the accident had taken place due to rash and negligent driving of the offending vehicle by its driver. The Tribunal allowed compensation of ₹10,08,000/- to claimants, which was computed as follows:-

Sr. No.	***Heads***	***Calculation***
(i)	Age of the deceased	45 years
(ii)	Annual income of the deceased	₹220000
(iii)	Net income of the deceased after deduction of taxes	₹168000
(iv)	1/3rd of (iii) deducted as personal expenses of the deceased	(₹168000-₹56000)= ₹112000 per month
(iii)	Compensation after applying multiplier of 9 as per age of claimants	(₹112000X9)= ₹1008000
	Total	**₹1008000**

5. Learned counsel for appellants has argued that age of the deceased was 46 years and multiplier applicable in this case as per observations in case of ***Sarla Verma and ors.*** ***vs.*** ***Delhi Transport Corporation and another, (2009) 6 SCC 121*** is 13 but the Tribunal has wrongly applied the same as 9. The deceased has left behind wife, three daughters and parents as his dependants. Even if father aged 73 years, is not taken as dependant on the deceased, still deduction towards his personal expenses could be made as 1/4th of his income instead of 1/3rd. As per

observations of Apex Court in case ***Rajesh and others vs. Rajbir Singh and others*, *2013 (9) SCC 54***, ***Munna Lal Jain and others* vs. *Vipin Kumar Sharma and others*, *2015 (3) RCR (Civil) 447*** and ***Vimal Kanwar and others vs. Kishore Dan and others, 2013 (7) SCC 476*,** claimants are entitled to 30% addition in income of the deceased towards future prospects. Wife of the deceased is entitled to compensation towards loss of consortium, children for the loss of love and affection care and guidance and parents are entitled to compensation towards loss of estate, love and affection. No compensation was awarded by the Tribunal towards funeral expenses of the deceased.

6. Learned counsel for respondent no. 3-Insurance Company has argued that the Tribunal has assessed income of the deceased on the basis of income tax return filed by him and awarded compensation, which is just and reasonable, as per price index prevailing at the time of accident.

7. It is not disputed that as per observations of Apex Court in ***Sarla Verma's case (supra)***, multiplier attracted in this case, keeping in view the age of deceased, is 13 and not 9 and the deduction towards personal expenses of the deceased is to be made as $1/4^{th}$ instead of $1/3^{rd}$ as applied by the Tribunal. As per observations in ***Rajesh's case (supra), Munna Lal Jain's case (supra)*** and ***Vimal Kanwar's case (supra)*** claimants are entitled to 30% addition in income of the deceased towards future prospects and for the loss of consortium for the wife, loss of love and affection care and guidance for minor children and loss of estate love and affection for parents, claimants are entitled to ₹50,000/- under each head besides a lump sum amount of ₹15,000/- as compensation for the funeral expenses.

8. In view of my discussion above, the amount of compensation, to which claimants are entitled, is reassessed as follows:-

Sr .No.	***Heads***	***Calculation***
(i)	Net annual income of the deceased (as assessed by the Tribunal)	₹168000
(ii)	30% of (i) above to be added towards future prospects	(₹168000+₹50400)= ₹218400 pre annum
(iii)	1/4th of (ii) deducted as personal expenses of the deceased	(₹218400-₹54600)= ₹163800 per annum
(iv)	Compensation after applying multiplier of 13	(₹163800X13)= ₹2129400
(v)	Loss of consortium	₹50000
(vi)	Loss of love and affection care and guidance for children	₹50000
(vii)	Loss of estate, love and affection for parents	₹50000
(viii)	Compensation towards funeral expenses	₹15000
Total		**₹2294400**

13. As a sequel of my discussion above, the appeal is accepted. Award of the Tribunal is modified and compensation allowed to claimants is enhanced from ₹10,08,000/- to ₹22,94,400/-. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of claim petition till actual realization. Respondent No. 3 being insurer of the offending vehicle will deposit the share of claimants-appellants in their bank accounts or pay the same through demand drafts. Counsel fee is assessed at ₹20,000/-.

July 26, 2016 **(SURINDER GUPTA)**
jk **JUDGE**

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No