IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1156-2005
Date of decision: 27.2.2016

Neelam and another
...Appellants

Versus

Jasmer Singh and another
...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Arun Kumar Singal, Advocate for the appellants

Mr.Abhishek Goyal, Advocate for respondent No.2.

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SNEH PRASHAR, J.

Claimants-appellants being wife and son of deceased Mahesh Chand, who lost his life in a road side accident on 4.2.2004, filed the present appeal seeking enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, Panipat (hereinafter referred to 'the Tribunal') vide award dated 30.11.2004.

The submissions made by Mr.Arun Kumar Singal, Advocate representing the appellants and Mr.Abhishek Goyal, Advocate appearing on behalf of respondent No.2- Insurance Company have been heard.

It was argued on behalf of the appellants-claimants that the Tribunal had wrongly assessed the monthly earnings of the deceased as Rs.3000/-, when the evidence led by the claimants proved that the deceased was employed as peon with M/s Nanu Mal Amar Nath and was getting salary of Rs.2300/- per month and in addition to the same, he was working part time for two hours to supplement his income and was being paid Rs.1500/- by M/s Dheeraj Gupta and Associates. In that manner, his total income was Rs.3800/- per month. Learned counsel further submitted that while calculating the compensation, no amount had been added to the actual income of the deceased computing his future prospects. The amount awarded under conventional heads is also inadequate.

Learned counsel representing respondent No.2-Insurance Company disputing the aforesaid facts submitted that the multiplier of 16 applied by learned Tribunal is on the higher side.

Admittedly, Mahesh Chand had died due to the injuries suffered by him in a road side accident caused by respondent No.1 driver of the offending vehicle. In the Ration card Ex.P1, the age of the deceased was mentioned as 34 years, which was prepared 6-7 years prior to the accident. In the postmortem report Ex.P13 the age of the deceased was mentioned as 38 years. The said documents indicate that the deceased was in the age group of 35-40 years. Therefore, in view of law laid down in **Sarla Verma and others vs. DTC and another 2009 ACJ 1298**, the multiplier of 15 is applicable.

As regards contention of the claimants that the deceased used to earn a sum of Rs.3800/- per month, there is no substance in the same because PW3 Manjeet Singh representative of M/s Dheeraj Gupta and Associates admitted that their balance sheets Exs.P5 to P8 were not audited. Neither the attendance register nor the salary register was produced to prove that the deceased was doing part time job with M/s Dheeraj Gupta and associates and was getting a sum of Rs.15,00/- per month. Despite that, learned Tribunal assessed the income of the deceased as Rs.3000/- per month as per the minimum wages prevalent in the State of Haryana and also the rates fixed by Deputy Commissioner for part time employment on per hour basis. The said finding warrants no intervention.

Perusal of the award shows that no addition to the income computing future prospects was made. In view of law laid down in **Rajesh and others vs. Rajbir Singh and others (2013) 9 SCC 54**, addition of 50% to the actual income of the deceased computing future prospects has to be made.

The claimants are the widow and minor sons. The deceased was the sole bread earner of the family and his untimely death caused a great shock to the family members. Following the ratio of **Vimal Kanwar and others vs. Kishore Dan and others (2013-3) PLR 776,** the amount awarded under loss of consortium is enhanced to Rs.One lac and the amount awarded on account of funeral expenses is also enhanced to Rs.25,000/-. Further a sum of Rs.One lac is allowed to the minor child on account of loss of love, care and guidance.

Accordingly, the total compensation comes to Rs.7,65,000/- (3000 (monthly income) + 50% (future prospects) -1/3rd (deduction on account of living and personal expenses) x 12 x 15 (multiplier) + 2,25,000 (under the conventional heads including the amount already awarded). The enhanced compensation of Rs.3,51,000/- (7,65,000-4,14,000) shall be paid to the claimants-appellants within two months from the date of receipt of the certified copy of this judgment, failing which, it shall carry interest at the rate of 7.5% per annum from the date of filing the appeal, till its realisation.

The appeal is partly allowed and the impugned award is modified to the above extent.

27.2.2016 **(SNEH PRASHAR)**
gsv **JUDGE**