IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-5458-2006 (O&M)
Date of decision: 26.4.2016

Kamla Devi and another

...Appellants

Versus

Gurmeet Singh and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Chandan Deep Singh, Advocate for the appellants

Mr.Karanbir Singh, Advocate for
Mr.JS Toor, Advocate for respondent No.2.

Mr.DK Dogra, Advocate for respondent No.3.

****

SNEH PRASHAR, J.

Claimants-appellants being the parents of deceased Subhash @ Santosh, who lost his life in a road side accident on 27.1.2004, filed the present appeal seeking enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to 'the Tribunal') vide award dated 17.10.2006.

The submissions made by Mr.Chandan Deep Singh, Advocate representing the appellants, Mr.Karanbir Singh, Advocate for respondent No.2 and Mr.DK Dogra, Advocate for respondent No.3-Insurance Company have been heard.

Learned counsel for the appellants contends that the deceased was the sole bread earner of the family and by doing work of cycle repair he used to earn Rs.3000/- per month. But learned Tribunal wrongly assessed his income as Rs.2100/- per month. The multiplier of '11' was applied by learned Tribunal, which is in contravention to the law laid down by Hon'ble Supreme Court in **Munna Lal Jain and anr. vs. Vipin Kumar Sharma and others (2015) 6 SCC 347**. Also, no addition was made to the income of the deceased computing future prospects. The amount awarded towards loss of love and affection and funeral expenses is on the lower side.

On the other hand, learned counsel for respondent No.3-insurance company argued that the multiplier of '11' was rightly applied by learned Tribunal considering the age of parents of the deceased i.e. claimants-appellants as is laid by Hon'ble Apex Court in **New India Assurance Company Ltd. vs. Smt. Shanti Pathak and others 2007(3) RCR (Civil) 593**. Learned counsel further submitted that the deduction of $1/3^{rd}$ taken by learned Tribunal is on the lower side.

Undisputedly, Subhash alias Santosh died due to the injuries sustained by him in a road side accident that took place on 27.1.2004. he was a young boy aged 19 years. There being no substantive evidence with regard to avocation and income of the deceased, learned Tribunal rightly assessed his income as Rs.2100/- per month.

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 19 years of age when he died during the accident. The Motor Vehicles Act, being a beneficial legislation, this Court relies on Munna Lal Jain's case (supra), which is subsequent to the case law cited by learned counsel for the respondent-Insurance Company i.e. in Smt. Shanti Pathak's case (supra). Taking into consideration the age of the deceased, the learned Tribunal should have applied the multiplier of '18' instead of '11'. Since the deceased was bachelor, 50% deduction of his income on account of his personal and living expenses would be applicable.

Apparently, no addition was made for computing future prospects of the deceased. Following 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.

Accordingly, the compensation payable to the appellants-claimants under the loss of dependency is calculated as under:-

1.	Monthly income of the deceased (in Rupees)		Rs.2100/-
2.	Actual age of the deceased		19 years
3.	Increase 50% in future income as per Rajesh and others' case (supra)		Rs.1050/-
4.	Annual dependency		1/2 of Rs.3150/- x 12 = Rs.18,900/-
5.	Multiplier		18
6.	Total		Rs.3,40,200/-

In addition to the amount of Rs.3,40,200/- calculated towards loss of dependency, an amount of Rs.25,000/- towards funeral expense and Rs.50,000/- towards loss of love and affection is allowed which shall include the amount of Rs.7,000/- already awarded by learned Tribunal on that counts.

The enhanced amounts of Rs.3,15,800/- (4,15,200-99,400) shall be paid to the appellants within two months from the date of receipt of certified copy of this judgment, failing which, it shall carry interest at the rate of 7.5% per annum from the date of filing of the appeal, tills its realization.

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

26.4.2016 **(SNEH PRASHAR)**
gsv **JUDGE**