IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2461 of 2008(O&M)
Date of Decision: May 10, 2016

Sukhjinder Kaur and another ...Appellants

Versus

Sukhwinder Singh and others ...Respondents

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr. Sudhir Paruthi, Advocate for the appellants.

Mr. Abhishek Goyal, Advocate for
Mr. Pardeep Goyal, Advocate for
respondent No.3 – Insurance Company.

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HARINDER SINGH SIDHU, J.

The present appeal has been filed by Sukhjinder Kaur and Manmohan Singh for modification of the Award dated 21.11.2007 passed by the Learned Motor Accident Claims Tribunal, Jalandhar (for brevity `the Tribunal'), whereby, a compensation of Rs.4,80,000/- along with interest from the date of filing of the petition till realisation of the awarded amount was granted in favour of the claimants, for the death of Hardeep Singh alias Sonu son of the petitioners.

On 24.6.2005 Hardeep Singh @ Sonu was going from Kartarpur to Jalandhar. He was driving his Maruti Zen Car bearing No.PB-10 AQ-4344. His father's sister Rajinder Kaur, her husband Gurmeet Singh, two minor daughters and Teja Singh were also travelling in the said car. They were being followed by Balbir Singh and Gurmeet Singh on scooter No. PB-08Q-5581. At about 10.45 A.M, when they reached about ½ KM towards Jalandhar side from Kartarpur, respondent No.1 – Sukhwinder

Singh came from the opposite direction driving Bus No.PB-29A-9565 and hit against the car, as a result of which, all the occupants of the car sustained injuries. Hardeep Singh died on the spot. FIR No.54 dated 24.4.2005 was registered in Police Station Kartarpur, in this regard.

Parents of the deceased filed claim petition pleading that the deceased was 22 years old and he was engaged in the business of dairy farming and also ran a computer centre and was earning Rs.18,000/- per month from both these sources.

It appears that in the title of the Claim Petition Section 163-A was wrongly typed whereas in fact the petition had been filed under Section 166 . This is clearly evident from the contents of the petition, the proceedings before the Tribunal including the framing of issues on the question of negligence of driver of the offending vehicle as also the findings of the Tribunal.

Upon notice, respondent No.1 – driver of the offending bus did not appear despite service and was proceeded against ex parte. Owner of bus, respondent No.2 alleged that the bus involved in the accident was duly insured with respondent No.3-Insurance Company and, thus, liability, if any, lies with it only. Respondent No.3 in its written statement took the plea that the driver of the offending bus No.PB-29A-9565 was not holding a valid, genuine and effective driving licence to drive the bus at the time of alleged accident and there was major breach of the Insurance policy and rules.

On appreciation of the evidence led before it, Ld. Tribunal assessed the income of the deceased at Rs.6000/- per month, deducted 1/3rd towards personal and living expenses of the deceased and applied multiplier of 10, based upon the age of the claimants/dependants, and calculated the loss of dependency at Rs.4,80,000/- (4000x12x10). No amount was awarded under any other head.

Ld. Counsel for the claimants has stated that as per the settled law in **Smt. Sarla Verma and others vs. Delhi Transport Corporation and Anr**, *2009(6) SCC 121,* **Rajesh and others vs. Rajbir Singh and others**, **2013 ACJ 1403,** and **Munna Lal Jain and another vs. Vipin Kumar Sharma and others, 2015(6) SCC 347**, since the deceased Hardeep Singh was 22 years old, the increase towards future prospects should have been 50% and multiplier was to be applied as per the age of the deceased and not the dependants. He also submits that the claimants are also entitled to compensation for loss of love and affection and funeral expenses.

In **Rajesh and others vs. Rajbir Singh and others**, **2013 ACJ 1403**, the Hon'ble Supreme Court has held that in case of self-employed or persons with fixed wages, below 40 years, there must be an addition of 50% to the actual income of the deceased. In the instant case, the deceased Hardeep Singh was 22 years old and, thus, his income was required to be enhanced by 50% towards future prospects.

The issue egarding application of multiplier was examined by three Judges Bench of the Hon'ble Supreme Court in the case of **Reshma Kumari v. Madan Mohan, (2013) 9 SCC 65**, in which **Smt.Sarla Verma and others v. Delhi Transport Corportaion and another, 2009(3) RCR (Civil) 77**, was considered and it was held that multiplier as given in Smt.Sarla Verma's case (supra) has to be applied. In the said case, Supreme Court applied the multiplier as per age of the deceased. In a recent judgement in **Munna Lal Jain and another vs. Vipin Kumar Sharma and others, 2015(6) SCC 347**, the Hon'ble Supreme Court has upheld the same view that multiplier is to be applied with reference to the age of the deceased and not age of dependents of deceased. As the deceased was 22 years old, multiplier of 18 was required to be applied. It is also settled that in case deceased being a bachelor, the deduction towards his personal and living expenses should be 50% of his income.

The claimants are also entitled to Rs.25,000/- towards funeral expenses and the claimant mother is exclusively entitled to Rs.1,00,000/- towards loss of love and affection.

In view of above, the compensation is re-assessed as under:-

Sr.No.	Heads	Calculation (In Rs.)
(i)	Loss of Income (after 50% increase)	6000+[6000x50/100] = 9000 p.m.
	50% of (i) deducted as personal and living expenses of deceased	9000-[9000x50/100] 4500
	After applying multiplier of 18	4500x12x18= 9,72,000/-
(ii)	Loss of Love and Affection (Exclusively payable to the claimant - mother)	1,00,000/-
(iii)	Funeral Expenses	25,000/-
	Total Compensation awarded	1097000/-

Accordingly, the appeal is allowed and the Award of the Tribunal is modified to the extent that the appellants are held entitled to total compensation of Rs.10,97,000/-, that is, Rs.6,17,000/- (1097000-480000) over and above the amount awarded by the Tribunal. Interest shall be paid on the enhanced amount at the rate of 7.5% per annum from the date of filing of claim application till realisation.

May 10, 2016 **(HARINDER SINGH SIDHU)**
JUDGE

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