IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-3104-2008 (O&M)
Date of decision: 19.05.2016

Smt. Ishwanti and another ...Appellants

Versus

Sandeep and others ...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. R. N. Lohan, Advocate for the appellants.

Ms. Madhu Sharma, Advocate for respondent No.3.

Mr. Amardeep Hooda, Advocate for
Mr. Ajay Kansal, Advocate for respondent No.4.

Service of respondent Nos.6 and 9 is dispensed with.

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JITENDRA CHAUHAN, J.

This is claimants' appeal seeking enhancement of the amount of compensation awarded vide impugned award dated 10.04.2008, passed by learned Motor Accidents Claims Tribunal, Jind, (for short, 'the Tribunal').

The arguments raised by the learned counsel for the appellants are that (1) nothing has been awarded towards loss of love and affection, which is contrary to the law laid down in ***Vimal Kanwar and others Vs. Kishore Dan and others,*** (2013-3) PLR 776; (2) nothing has been awarded towards future prospects; and (3) the

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learned Tribunal has wrongly applied the multiplier of 16 considering the fact that the age of the deceased, Sunil was 19 years at the time of accident.

On the other hand, the learned counsel for respondent Nos.3 and 4 have vehemently opposed the present appeal and stated that a just and reasonable compensation has already been awarded to the appellants.

I have heard the learned counsel for the parties and carefully perused the entire record.

From the perusal of the award, it is noticed that the learned Tribunal did not award any compensation on account of the future prospects. It is not in dispute that the deceased was 19 years of age at the time of his death. Therefore, keeping in view the law laid down in ***Rajesh Vs. Rajbir Singh,*** 2013(3) R.C.R. (Civil), 170 (SC), an addition of 50% is ordered on the actual income of the deceased towards future prospects. However, as the matter pertaining to the future prospects is pending adjudication before Hon'ble the Supreme Court in SLP (Civil) No.16735 of 2014, therefore, the amount of future prospects be released on furnishing of requisite indemnity bonds by the appellants.

Keeping in view the age of the deceased, the appropriate multiplier is '18' instead of '16'. Accordingly, multiplier of '18' is applied in view of the judgment delivered by Hon'ble the Supreme Court in ***Sarla Verma vs. DTC,*** 2009 (3) RCR (Civil) 77.

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In this way, the amount of compensation under the head of 'loss of dependency' comes to ₹15,000/- + 50% X 18 X 2/3 = ₹2,70,000/-, as against an amount of ₹1,60,000/-, assessed by the learned Tribunal under this head.

Furthermore, nothing has been awarded towards loss of love and affection, therefore, following the law laid down in Vimal Kanwar's case (supra), amount of ₹1,00,000/- awarded towards loss of love and affection shall be payable to the mother of the deceased only.

In view of the above, the claimants are held entitled to the enhanced compensation of ₹2,10,000/- [₹1,10,000/- (enhancement towards 'loss of dependency') + ₹1,00,000/- (towards loss of love and affection payable to the mother of the deceased, only)] as indicated above, in the manner prescribed in the impugned award, over and above the amount already awarded by the learned Tribunal, which shall be payable within a period of 45 days from the date of receipt of a certified copy of this judgment, failing which, they shall also be entitled to interest @ 7.5% per annum, from the date of filing the present appeal, till its realization.

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

19.05.2016 **(JITENDRA CHAUHAN)**
ashok **JUDGE**

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