IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 2907 of 2010
Date of decision: 05.08.2016

Sher Singh and another .... *Appellants*

Versus

Lakhbir Singh and others ....*Respondents*

Coram: **Hon'ble Mrs. Justice Rekha Mittal**

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Present: Mr. H S Baath, Advocate
for the appellants

Mr. Aseem Aggarwal, Advocate for
Mr. Harsh Aggarwal, Advocate
for respondent No. 3

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Rekha Mittal, J. (Oral)

The claimants are in appeal seeking enhancement of compensation in respect of death of Amandeep Singh, in a motor vehicular accident that occurred on 05.10.2006.

The learned Tribunal assessed income of the deceased at Rs.3,000.00 per month, deducted 1/3rd towards personal expenses, adopted multiplier of 12 to compute loss of dependency. Another sum of Rs.3,500.00 each was granted for expenses on funeral and last rites and love and affection.

Counsel for the appellants has submitted that an appropriate multiplier would be 18 in place of 12, as has been held in ***Smt. Sarla Verma and others v. Delhi Transport Corporation and another, (2009) 6 SCC 121*** and ***Munna Lal Jain and another v. Vipin Kumar Sharma and others***

(2015) 6 SCC 347. Further, benefit of increase in income for future prospects is admissible in the light of judgment ***Rajesh and others v. Rajbir Singh and others (2013) 9 SCC 54***. Compensation awarded under conventional heads requires enhancement in view of *Rajesh's* case (supra) and ***Vimal Kanwar and others v. Kishore Dan and others 2013 (2) RCR (Civil) 945***.

Counsel for the Insurance Company has submitted that the matter with regard to grant of future prospects is pending consideration before a Larger Bench of the Apex Court in view of reference made in ***National Insurance Company Limited v. Pushpa*** *(SLP (c) No. 16735 of 2014, decided on 02.07.2014)* and the observations made by the Apex Court in ***Shashikala and others v. Gangalakshmamma and another, 2015 ACJ 1239.*** In the alternative, it is argued that if such a benefit is allowed, amount payable for future prospects should not be allowed to be released except on furnishing of adequate security to ensure its recovery, in case the judgment in Rajesh's case (supra) is set aside. It is further argued that the learned Tribunal has allowed deduction to the extent of 1/3rd in place of ½ as the deceased was unmarried son of the claimants.

I have heard counsel for the parties and perused the paper book particularly the award passed by the learned tribunal.

Be that as it may, it is an undisputed position in law that the Tribunal has an onerous obligation to assess fair just and equitable compensation to make good loss as far as money can do. The Tribunal has allowed deduction of 1/3rd towards personal expenses but the same is required to be 50% *i.e. 1/2* in view of judgment in *Sarla Verma's* case (supra). However, admissible multiplier would be 18 in place of 12. The appellants shall be entitled for increase in income for future prospects to the extent of 50% as deceased was 20 years of age. The mere fact that the matter with regard to grant of future prospects is pending before a larger Bench is not sufficient to deny said benefit till judgment in Rajesh's case (supra) is set aside.

After taking into consideration aforesaid discussion, loss of dependency comes to Rs.6,48,000.00 (3000 x 12 x 18) + Rs.3,24,000.00 (50% for future prospects) - Rs.4,86,000.00 (50% deduction for personal expenses) = **Rs.4,86,000.00**. The appellants shall be entitled to an amount of Rs.25,000.00 for expenses on funeral and last rites. The mother of the deceased shall be entitled to Rs.50,000.00 towards love and affection of her son. The total compensation payable comes to **Rs.5,61,000.00** (4,86,000 + 50,000 + 25,000) and the enhanced compensation comes to **Rs.2,66,000.00** (5,61,000.00-2,95,000.00) which shall be payable with interest @ 7.5% per annum from the date of filing of petition till realization and the same shall be exclusively payable to mother of the deceased. The enhanced compensation shall be deposited in the shape of FDR for a period of three years. However, it is clarified that the question with regard to liability of the respondent (s) to pay compensation, decided by the Tribunal shall remain intact.

Disposed of accordingly.

(Rekha Mittal)
Judge

05.08.2016
mohan bimbra

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No