In the High Court of Punjab and Haryana at Chandigarh

FAO No.1132 of 2011(O&M)
Date of Decision: 22.8.2016

Mamta and others

---Appellants

versus

Krishan and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Vijay Saini, Advocate
Mr. Rakesh Nehra, Advocate
for the appellants
None for respondent Nos. 1 and 2
Mr. D.K.Prajapati, Advocate
for Mr. R.S.Madan, Advocate
for respondent No. 3

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<u>Rekha Mittal, J.</u>

Mamta and others, the claimants are in appeal seeking enhancement of compensation in respect of death of Rajbir Singh in a motor vehicular accident that took place on 12.10.2009.

The Motor Accident Claims Tribunal, Rohtak (in short "the Tribunal") assessed income of the deceased at Rs. 4000/- per month, deducted 1/3rd for personal expenses, adopted multiplier of 14 to compute loss of dependency.

Counsel for the appellant has submitted that the Tribunal has not awarded compensation qua future prospects and under conventional heads. The deduction is required to be 1/4th in consonance with judgment of Hon'ble the Supreme Court of India ***Sarla Verma and others vs. Delhi Transport Corporation and another 2009 ACJ 1298*** reiterated in ***Reshma Kumari and others vs. Madan Mohan and another 2013(2) RCR(Civil) 660*** .

There is no representation on behalf of respondent Nos. 1 and 2, earlier being represented by a counsel.

Counsel for respondent No. 3 (insurance company) has submitted that as the matter with regard to grant of future prospects is pending consideration before a Larger Bench in view of reference made in ***National Insurance Co. Limited vs. Pushpa and others.*** the appellants are not entitlerd to the said benefit.

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

The Tribunal has held the widow and three sons of the deceased entitled to get compensation being dependant upon earnings of Sh. Rajbir Singh. As four persons have been held to be dependent on earnings of the deceased, deduction in the circumstances would be $1/4^{th}$ in place of $1/3^{rd}$. The appellant shall be entitled to benefit of increase in income for future prospects to the extent of 30% in the light of judgment ***Rajesh and others vs. Rajbir Singh and others (2013)3 RCR (Civil) 170***. The mere fact that a reference is pending before a Larger Bench is not sufficient to deny the said benefit till the judgment in ***Rajesh and others' case (supra***) is varied or set aside. In this manner, loss of dependency comes to Rs. 4000 X 12 X 14= Rs, 6,72,000/- plus Rs. 2,01,600/-=Rs,8,73,600/- minus Rs.2,18,400/- (one fourth)= Rs. 6,55,200/-.

The appellants shall be entitled to an amount of Rs. 25,000/- for expenses on funeral. Mamta, widow is awarded Rs. 1,00,000/- for loss of consortium. The sons of the deceased are awarded an amount of Rs. 1,00,000/- in equal share for loss of love and affection of their father.

The total compensation payable to the appellants comes to Rs. 8,80,200/- and the enhanced compensation is Rs. 4,26,200/- which shall carry interest at the rate of 7.5% per annum from the date of petition till realization. The enhanced compensation shall be payable to widow of the deceased except the amount awarded to sons of the deceased for loss of love and affection. The enhanced compensation shall be kept in a fixed deposit receipt for a period of two years. The remaining terms and conditions of the award passed by the Tribunal shall remain intact.

Appeal stands disposed of.

(Rekha Mittal)
Judge

22.8.2016
PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No