IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-5706-2010 (O&M)
Date of decision: 7.4.2016

Smt.Margshri and others

...Appellants

Versus

Sirajuddin Khan and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Sandeep Jasuja, Advocate for the appellants

Mrs.Vandana Malhotra, Advocate for respondent No.3

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SNEH PRASHAR, J.

By way of this appeal, appellants-Margshri and others seek enhancement of compensation awarded to them by learned Motor Accident Claims Tribunal, (Fast Track Court), Nuh (for short, "the Tribunal") vide the award dated 5.2.2010 passed in MACT Case No.180/2008/2009 on account of death of Jagdish Verma, husband of appellant No.1 and father of appellants No.2 to 4, who lost his life in a vehicular accident.

The submissions made by Mr.Sandeep Jasuja, Advocate representing the appellants and Mrs.Vandana Malhotra, Advocate for respondent No.3-insurance company have been heard and record perused.

Learned counsel for the appellants submitted that the deceased was Auto Technical Lecturer in Government Vocational

Education Institute, Ujjiana and was drawing salary of Rs.20,257/- per month. He was to be promoted in near future to the post of Principal and was 47 years aged at the time of accident. Learned Tribunal considering the fact that as per Haryana Government Notification dated 1.8.2006, the claimants would continue to receive as financial assistance a sum equal to the pay and other allowances, that was last drawn by the deceased, for a period of 12 years and after that they would get family pension, awarded a lump sum amount of Rs.5 lacs, which is in contravention to the law laid down by this Court in **Reliance General Insurance Co. Ltd. vs. Purnima and others 2014 ACJ 307**. Learned counsel further submitted that nothing was awarded under the head of loss of love, care and guidance to the children, loss of consortium to the wife and expenses incurred on last rites.

On the other hand, learned counsel for respondent No.3-Insurance company submitted that as proved by PW1 Nawal Singh, Principal ITI, Ujjiana, the wife of the deceased was drawing salary as pension of Rs.7400/-+22% DA and the revised salary will be given to her from 1.1.2006 and she was also entitled to get Rs.5 lacs on account of non-providing of service to her on the death of her husband. As per the aforesaid Notification, the wife of the deceased will be getting full salary with increased benefits from time to time for a period of 12 years from the date of death of her husband. Thus, the claimants suffered no loss of income/ dependency and therefore, the compensation awarded by the Tribunal is just and appropriate.

PW1 Nawal Singh, Principal, ITI, Ujjina proved that the deceased was employed as Auto Technical Lecturer in Government Vocational Education Institute Ujjiana and was 47 years old when he died in the accident. He also proved the salary certificate Ex.P15, according to which, the deceased was drawing salary of Rs.20,257/- per month. Since, the deceased was 47 years aged, as per the Notification dated 1.8.2006, issued by the Haryana Government called **"Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006"**, the widow of deceased Margshri would get full salary alongwith the annual increments etc. as per rules for a period of 12 years. The gross salary of the deceased as per salary slip Ex.P2 does not cross the income tax exemption limit, as for sure, the deceased would have made savings as permitted under the Income Tax Rules.

Applying the mode of calculation in such state of facts as laid down by the Division Bench of this Court in Purnima and others' case (supra), the compensation payable to the appellants -claimants comes as under:-

Monthly income in Rupees)	**Actual age of the deceased**	**Notional age (Actual age of the deceased+ the number of years of full last drawn salary as per Compassionate Rules)**	**Increase in future Income as per *Sarla Verma***	**Annual dependency**	***Multiplier as per Sarla Verma (to be broken into 2 parts if multiplier spills over the age of 58 yrs. Before + after superannuation)***	**Compensation for full Salary period i.e. upto 58 yrs. (rounded off)**	**Compensation for Pension Period i.e. after 58 years (rounded off)**	**Total compensation : (column 8+ column 9**
20257	**47**	**47+11=58**	Nil	**3/4th x 12**	**9**	**Nil**	**8,20,408/-**	**8,20,408/-**

Perusal of the award shows that nothing was awarded under the conventional heads. Appellant No.1 is the wife, appellants No.2 to 4 are son and daughters. The deceased was the sole bread earner of the family and his untimely death caused a great shock to the family members. Following the ratio of **Rajesh and others vs. Rajbir Singh and others (2013) 9 SCC 54,** in my considered opinion the ends of justice would be served, if a sum of Rs. one lac is allowed towards loss of consortium to the wife and Rs.25,000/- is allowed for the expenses incurred on last rites. Further a sum of Rs.One lac is allowed to the children on account of loss of love, care and guidance in equal share.

Accordingly, the enhanced amount of compensation i.e. Rs.5,45,408/- (10,45,408-5,00,000 already allowed) shall be paid to the appellants within 45 days from the date of receipt of the certified copy of this judgment, failing which, it shall carry interest @ 7.5 % per annum from the date of filing of the appeal till its realisation.

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

7.4.2016 **(SNEH PRASHAR)**
gsv **JUDGE**