IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-5193-2011 (O&M)
Date of decision: 23.2.2016

Smt.Balbir Kaur and others

...Appellants

Versus

Dhan Singh and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Chand Ram Olla, Advocate for the appellants

None for respondents No.1 to 6

Mr.RN Singal, Advocate
for respondent No.7- Insurance Company

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SNEH PRASHAR, J.

The present appeal had been filed by the claimants-appellants, seeking enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, Hisar vide award dated 28.11.2007, on account of death of Khazan Singh due to the injuries sustained by him in a road side accident.

The submissions made by learned counsel for the parties have been heard.

It is submitted on behalf of the appellants that the deceased was running a welding shop and used to earn Rs.8000/- per month, whereas learned Tribunal assessed his income as Rs.18,000/-

per annum. No amount was added to the income computing the future prospects of the deceased. Also nothing was awarded towards loss of love and affection and loss of consortium to the wife. The amount awarded under the head of funeral expenses is also inadequate.

Learned counsel representing the respondents controverting the above arguments has taken the stand that the compensation awarded by learned Tribunal is just and appropriate.

It is not in dispute that Khazan Singh died due to the injuries suffered by him in a road side accident. The deceased was 54 years old at the time of his death. No substantive or documentary evidence could be produced by the appellants to prove that the deceased was running a welding workshop or that he used to earn Rs.8,000/- per month. But keeping in view the age of the deceased, the income assessed by learned Tribunal i.e. Rs.18000/- per annum is on the lower side. Considering the price index and minimum wages prevalent in the year 2004, the income of the deceased is assessed as Rs.4,000/- per month.

There are six claimants namely wife, two sons and three daughters. All the children are major, but there is nothing to indicate that sons are self dependent or the girls are married. Therefore, in view of law laid down in **Sarla Verma and others vs. DTC and another 2009 ACJ 1298**, the deduction to the extent of $1/4^{th}$ towards personal expenses of the deceased will be appropriate.

Further following the ratio of **Rajesh and others vs. Rajbir Singh and others (2013) 9 SCC 54**, as the deceased was 54 years of age, an increase of 15% to the actual income of the deceased computing his future prospects is to be added.

No amount had been awarded towards loss of love and affection to the children. Untimely death of Khazan Singh was a great shock to the claimants. In view of pronouncement of Hon'ble Apex Court in **Vimal Kanwar and others vs. Kishore Dan and others 2013 (2) RCR (Civil) 945** an amount of Rs.One lac is allowed on account of loss of consortium to the wife; for loss of love, care and guidance Rs.One is given to the children and Rs.25,000/- will be under the head of last rites including the amount already awarded.

Accordingly, the total compensation comes to Rs. 6,80,400/- i.e. Rs.4000/- (monthly income) + 15 % (future prospects)- 1/4th (deduction towards personal expenses of the deceased) x 12 x 11 (multiplier) + Rs.2,25,000 /- (conventional heads including already awarded). The enhanced amount of Rs.4,62,400/- (6,80,400-2,18,000 already awarded) be deposited by the Insurance Company within two months from the date of receipt of the certified copy of this judgment, failing which, the same shall carry interest @ 7.5 % per annum from the date of filing of the appeal till its realisation. The enhanced amount shall be disbursed to the claimants -appellants in the manner indicated in this judgment as well as in the impugned Award.

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

23.2.2016 **(SNEH PRASHAR)**
gsv **JUDGE**