IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2572-2012 (O&M)
Date of decision: 5.4.2016

Ramkala and others

...Appellants

Versus

Mahavir Singh and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Aditya Yadav, Advocate for
Mr.SN Yadav, Advocate for the appellants

Mr.Arun Sharma, Advocate for
Mr.TK Joshi, Advocate
for respondent No.3- Insurance Co.

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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, Jhajjar (for short 'the Tribunal') vide award dated 8.9.2011 on account of death of Ramehar, husband of appellant No.1, son of appellant No.2 and father of appellant No.3, in a motor vehicular accident.

The submissions made by Mr.Aditya Yadav, Advocate representing the appellants and Mr.Arun Sharma, Advocate for respondent No.3- Insurance Company have been heard and record perused.

Learned counsel for the appellants submitted that the deceased was in a Government service and was getting total salary of Rs.12,213/- per month. Learned Tribunal after deducting 1/3rd and applying the multiplier of 11, calculated the compensation to the tune of Rs.10,74,700/- under the head of loss of dependency. However, the Tribunal after deducting the amount of financial assistance extended to his wife under the welfare scheme of the State Government, awarded only a sum of Rs.2,76,429/- as compensation, which is contrary to the law laid down by this Court in **Oriental Insurance Company Ltd. Vs. Saroj Devi and others, 2012 (1) PLR 761**.

Learned counsel further submitted that no amount was awarded under the heads of loss of love and affection to the mother and loss of love, care and guidance to the daughter. The amount awarded i.e. Rs.20,000/- as funeral expenses and Rs.20,000/- under the head of loss of consortium is on the lower side.

In **Saroj Devi and others' case (supra)** the legal issue before this Court was regarding the measure of compensation that an insurance company or an owner is required to pay, in case of a death having been caused by the use of motor vehicle in a public place, in the face of a compassionate assistance policy formulated by the State (State of Haryana) which enables the claimants i.e. the deceased's family, to tide over the financial crisis, resulting from the death of the earning member, by providing full salary for a certain number of years (which is determined as per the age of the deceased government employee) followed by family pension for the remainder term. The query was answered in the terms reproduced hereunder:-

> “Every law framed by the State has an ‘Object’ attached to it because law is never created in vacuum. In order to achieve a particular Object, a reasoning or justification is required as to why the ‘Object’ is sought to be achieved. I believe that the scheme of compassionate assistance is in recognition of the services already put in the discharge of the affairs of the government and a further recognition that the deceased would have continued to perform his services diligently but for his demise. I am even inclined to hold that the compassionate assistance coming from the State is itself a form of deferred wage, which the deceased employee has earned by putting in his labour and effort in the service of the State. I, therefore, hold that financial assistance under the Compassionate Assistance Rules and the compensation as

> assessed under the relevant provisions of Motor Vehicles Act are mutually exclusive and have no reciprocal bearing on the quantum as arrived at under the respective heads. Accordingly, I hold that the Insurance Companies are liable under the terms of their contract with the insured, independent of the financial assistance as received under State compassionate assistance policy, to pay the compensation as assessed by the learned Tribunals under Section 166 or 163 A of the Motor Vehicles Act, except to the extent worked out in accordance with the formulae as detailed hereinabove."

The above view was affirmed by the Division Bench of this Court in **"Reliance General Insurance Company Limited Vs. Purnima and others"**, **"FAO No.1322 of 2010"** and other connected appeals, decided on 21.12.2012.

In the case in hand, the deceased was serving in a Department of Haryana Government. He was 52 years of age at the time of his death. As per salary certificate Ex.P35, he was drawing a salary of Rs.12,213/ per month. The claimants are widow, mother and daughter of the deceased. Accordingly, The compensation under the loss of dependency comes to 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**
12213	**52**	**52+6=58**	Nil	**2/3rd x 12**	**9**	**-**	**4,39,668/-**	**4,39,668/-**

The untimely death of Ramehar was a great shock to the claimants because he was the sole bread earner of the family. Following the law laid down in **Vimal Kanwar and others vs. Kishore Dan and others 2013 (2) RCR (Civil) 945** in my considered opinion the ends of justice would be served, if a sum of Rs. one lac towards loss of consortium (including the amount already awarded this head); Rs.50,000/- on account of loss of love and affection to the mother on her furnishing an affidavit, if alive; Rs. one lac under the head of loss of love, care and guidance to the child is allowed. The amount awarded on account of last rites expenses is also enhanced from Rs.20,000/- to Rs.25,000/-.

Accordingly, the enhanced amount of compensation i.e. Rs.4,38,239/- (7,14,668-2,76,429 already awarded) shall be paid to the appellants within two months 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.

5.4.2016 **(SNEH PRASHAR)**
gsv **JUDGE**