IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-893-2011
Date of decision: 23.2.2016

Kamaljit Kaur and others

...Appellants

Versus

Lakhwinder Singh and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.BR Rana-I, Advocate for the appellants

None for respondents No.1 and 2

Mr.Amit Jain, Advocate
for respondent No.3- Insurance Company

****

SNEH PRASHAR, J.

By filing the present appeal, the claimants-appellants have sought enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, Ludhiana (for short 'the Tribunal'), vide award dated 18.10.2008, on account of death of Birpal due to the injuries sustained by him in a motor vehicular accident.

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

It is submitted on behalf of the appellants that even if the deceased was taken as unskilled worker, his income should not have been less than Rs.5000/- per month, whereas learned Tribunal assessed his income as Rs.3000/- per month. The multiplier of 13 and the

GAURI SHANKER
2016.03.15 09:12
I attest to the accuracy and
integrity of this document
Chandigarh

deduction of 1/3rd on account of personal expenses applied by learned Tribunal are contrary to the law laid down in **Sarla Verma and others vs. DTC and another 2009 ACJ 1298**. No amount was added to the actual income of the deceased computing the future prospects. Also nothing was allowed to the minor children for loss of love, care and guidance. It is further submitted that the amount awarded under other conventional heads is also inadequate.

It is not in dispute that Birpal died due to the injuries suffered by him in a road side accident caused by respondent No.1, driver of the offending vehicle. In the postmortem report Ex.P2, the age of the deceased was mentioned as 35 years at the time of his death. As per the claimants, the deceased was working as a Supervisor in Ganpati Industries, Focal Point, Ludhiana and was getting Rs.5000/- per month as salary. Even if the deceased is taken to be employed as Supervisor, the prevalent minimum rates of wages in the year 2007 were Rs.3204/- per month.

The number of dependents are five i.e. widow, old mother and three children. Therefore, in view of the law laid down in **Sarla Verma and others vs. DTC and another 2009 ACJ 1298** considering the age of the deceased i.e. 35 years and the number of the dependents, the multiplier is increased to 16 and also deduction towards personal and living expenses of the deceased is made to 1/4th. As laid down in **Rajesh and others vs. Rajbir Singh and others (2013) 9 SCC 54**, the deceased being 35 years of age at the time of accident, an addition of

50% to his actual income computing future prospects is allowed.

Perusal of the award shows that while awarding compensation under the conventional heads, no amount has been allowed towards loss of love, care and guidance to the children. Untimely death of Birpal was a great shock to the claimants. He was the sole bread earner of his family. Following the ratio of **Rajesh and others' case (supra)** on account of loss of love, care and guidance to the children, a sum of Rs.One lac is allowed. The amount awarded on account of loss of consortium to the widow is enhanced to Rs. One lac. Further a sum of Rs.25,000/- is allowed being expenditure on last rites including the amount already awarded and Rs.50,000/- is allowed on account of loss of love and affection to the mother.

Accordingly, the total compensation comes to Rs. 9,69,564/- i.e. Rs.3204/- (monthly income) + 50% (future prospects)-1/4th (deduction towards personal and living expenses of the deceased) x 12 x 16 (multiplier) + Rs.2,77,500 /- (under the conventional heads including the amount already awarded). The enhanced amount of Rs.6,48,064/- (9,69,564-3,21,500 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**