IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-5362-2012 (O&M)
Date of decision: 4.4.2016

Shiv Murat Tiwari and another

...Appellants

Versus

Pappu Lal and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.RB Gupta, Advocate for the appellants

Mr.Subhash Goyal, Advocate for respondent no.3.

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SNEH PRASHAR, J.

By way of this appeal, appellants -Shiv Murat Tiwari and another seek enhancement of compensation awarded to them by learned Motor Accident Claims Tribunal, Faridabad (for short, "the Tribunal") vide award dated 22.2.2012 passed in MVA Case No.159 of 2010 on account of death of Om Parkash, son of the appellants, who lost his life in a vehicular accident.

The submissions made by Mr.RB Gupta, Advocate representing the appellants and Mr.Subhash Goyal, Advocate for respondent No.3- Insurance Company have been heard and record perused.

It is submitted on behalf of the appellants that at the time of accident, the deceased was a young boy aged 26 years and was unmarried. Learned Tribunal observed that the deceased was 12th pass, whereas the certificate (Annexure A-1) attached with the appeal shows that he had passed B.Com from University of Delhi. An application i.e. CM-24212-CII-2012 had been filed by them for producing Annexure A-1, Mark Sheet of B.Com and Annexure A-2 Appointment letter dated 17.6.2009 of deceased Om Tiwari by Reliance life Insurance Company, by way of additional evidence.

The said documents cannot be taken on their face value when they were not duly proved by the claimants- appellants during evidence before learned Tribunal. At that stage, the appellants proved the salary certificate of the deceased Ex.P8 by examining PW6 Amit, Operation Executive of Reliance Life Insurance Company. However, the witness neither produced the appointment letter nor tendered in evidence the original attendance register. The certificate also shows substantial variation in the salary of the deceased in the months of July, 2009 and October, 2009 and learned Tribunal specifically observed that as mentioned in the salary certificate Ex.P8, the deceased had left the service on 10.11.2009. In view of said facts, the documents now sought to be tendered as additional evidence are not relevant and the application -CM-24212-CII-2012 is dismissed.

Learned counsel further argued that the multiplier applied by learned Tribunal is in contravention to the law laid down in **Reshma Kumari and others vs. Madan Mohan and another 2013(2) RCR (Civil) 660,** according to which, the multiplier should have been applied as per the age of the deceased and not of his parents. Also, no addition was made to the income of the deceased computing future prospects and nothing was awarded towards loss of love and affection to the mother. Only a meager amount of Rs.10,000/- was awarded towards funeral expenses and loss of estate.

Learned counsel representing respondent No.3-Insurance Company controverting the above arguments has taken the stand that the compensation awarded by learned Tribunal is just and appropriate.

The fact that Om Parkash died due to the injuries suffered by him in a road side accident that occurred due to rash and negligent driving of the offending vehicle by respondent No.1, is no more a contentious issue. In Ex.P12, detailed mark sheet of secondary school issued by Central Board of Secondary Education, the date of birth of the deceased had been mentioned as 14.12.1983. The accident occurred on 3.2.2010 and thus, the deceased was 26 years aged and was a bachelor at the time of his death. Perusal of the award shows that the multiplier was applied as per the age of the parents. Full Bench of Hon'ble Supreme Court in ***Reshma Kumari and others's case (supra)*** has held that in case of death of an unmarried person, the multiplier should be applied as per the age of the deceased. As such, in the present case, the appropriate multiplier will be 17. Apparently, no addition to the income was made computing future prospects of the deceased. Following the law laid down in ***Rajesh and others vs. Rajbir Singh and others, 2013(3) R.C.R. (Civil) 170*** there had to be an addition of 50% to the actual income of the deceased on account of future prospects. The deduction of 50% towards personal and living expenses of the deceased was rightly made by learned Tribunal.

Perusal of the award shows that while awarding compensation under the conventional heads, no amount has been allowed towards loss of love and affection to the parents. Needless to say that the untimely death of the young son caused a grave shock to the parents. Following the ratio of **Amrit Bhanu Shali and others vs. National Insurance Co. Ltd. and others 2012 ACJ 2002,** for loss of love and affection a sum of Rs.50,000/- is allowed to the parents and the amount awarded on account of funeral expenses is also enhanced to Rs.25,000/-.

The amount incurred on the medical treatment of the deceased before his death i.e. Rs.36,500/- has already been allowed to the claimants.

Accordingly, the total compensation comes to Rs.8,45,000/- i.e. Rs.5000/- (monthly income) + 50 % (future prospects)-1/2 (deduction towards personal and living expenses of the deceased) x 12 x 17 (multiplier) + Rs.80,000 /- (including the amount already awarded under the conventional heads). The enhanced amount of Rs.4,45,000/- (8,45,000-4,00,000 already awarded) shall be paid to the claimants -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.

With the above modification in the impugned award, the present appeal is partly allowed.

4.4.2016 **(SNEH PRASHAR)**
gsv **JUDGE**