In the High Court of Punjab and Haryana at Chandigarh

FAO No.5900 of 2012
Date of Decision: 11.7.2016

Kuldeep Kaur and others

---Appellants

versus

Harjnder Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr.Sanjay Jain, Advocate
for the appellants

Mr. Subhash Goyal, Advocate
for respondent No. 3

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1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

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Rekha Mittal, J.

The claimants are in appeal seeking enhancement of compensation in respect of death of Suresh Kumar in a motor vehicular accident on 30.5.2010 due to rash and negligent driving of Canter bearing No. HR-68-A-0434 driven by Harjinder Singh @ Rinku respondent No. 1.

The Motor Accident Claims Tribunal, Ambala assessed income of the deceased at Rs. 3,300/- per month, deducted 1/3rd towards personal expenses, adopted multiplier of 15 and awarded an amount of Rs. 3,96,000/- towards loss of dependency. Under conventional heads, Kuldeep Kaur widow has been awarded Rs. 10,000/- towards loss of consortium and an amount of Rs, 5000/- was awarded towards funeral expenses making total compensation to the tune of Rs, 4,11,000/-.

Counsel for the appellants has challenged the award on various counts. It is argued that income assessed by the Tribunal requires enhancement in view of evidence of Rajiv Thakur from T.C.Terrytex Limited, Sarsini PW3 and certificate Ex. P4. The deduction towards personal expenses is liable to be reduced to 1/4th instead of 1/3rd in the light of judgment **Sarla Verma and others vs. Delhi Transport Corporation and another 2009 ACJ 1298**. The multiplier is liable to be enhanced to 16 instead of 15 as the deceased was 35 years old. Compensation under conventional heads is liable to be awarded by taking into consideration the ratio laid down in ***Rajesh and others vs. Rajbir Singh and others (2013)3***

RCR (Civil) 170 *and* ***Vimal Kanwar and others vs. Kishore Dan and others 2013(2)RCR(Civil)945.***

Counsel for Reliance General Insurance Company Limited (in short "the insurance company") has supported the award with the submissions that as per document Ex. R1 brought on record during cross examination of Rajiv Thakur PW3, no fault can be found in assessment of income of the deceased.

I have heard counsel for the parties, perused the paper book and the records of the Tribunal.

Rajiv Thakur, a representative of H.R. Department in T.C.Terrytex Limited, Sarsini produced salary certificate of the deceased (Ex. P4) and a copy of the attendance register of May 2010 (Ex. P5). In cross examination, he admitted that as per salary slip (Ex. R1) last drawn salary of the deceased was Rs. 2705/- after deductions. The certificate Ex. P4 shows that Suresh Kumar was working with the company from 1.1.2010 as an Assistant Brazoli Operator in Fabric Dyeing Department and he has drawn wages inclusive of all benefits with basic pay of Rs. 3740/- and total amount of Rs. 4867/-. The salary slip Ex. R.1 issued on 5.6.2010 also makes mention of salary of Rs. 3740/- but the basic salary is mentioned to be Rs. 3137/- after making deductions. After taking into consideration Exs. P4 and R1, the learned Tribunal has taken a reasonable view to assess income of the deceased at Rs. 3300/- per month. The Tribunal has allowed deduction towards personal and living expenses of the deceased to the extent of 1/3rd which is required to be 1/4th as there are four dependents on income of the deceased. There is no clear and cogent evidence on record with regard to exact age of the deceased. That being so, the multiplier adopted by the Tribunal does not require modification. The appellants shall be entitled to benefit of increase in income to the extent of 50% for future prospects. The compensation towards loss of dependency comes to Rs. 3300 x 12 x15 = Rs.5,94,000/- +2,97,000/- = Rs.8,91,000/- - 2,22,750/- = 6,68,250/-

So far as compensation payable under conventional heads, Kuldeep Kaur (widow of the deceased) shall be entitled to Rs. 1,00,000/- towards consortium. The minor children of the deceased namely Dhruv and Devansh shall be paid an amount of Rs. 1,50,000/- in equal share for loss of love and affection of their father. Ajmero Devi (mother) shall be entitled to an amount of Rs. 50,000/- towards loss of love and affection of her son. The appellants shall be entitled to an amount of Rs. 25,000/- for funeral expenses. The total amount of compensation payable to the appellants comes to Rs.09,93,250/- and enhanced compensation is Rs.5,82,250/-. The enhanced amount of compensation shall carry interest at the rate awarded by the Tribunal and shall be payable from the date of filing of the claim petition till realization.

The enhanced compensation shall be payable to widow of the deceased except the amount awarded to minor claimants and mother of the deceased towards loss of love and affection which shall be payable to them according to their entitlement discussed hereinbefore. The compensation awarded to the minor children shall be deposited in the shape of FDR in a nationalized bank till they attain the age of majority. The widow and mother of the deceased shall be entitled to withdraw the amount of their share (enhanced compensation) forthwith.

(Rekha Mittal)
Judge

11.7.2016
PARAMJIT