IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-171-2013 (O&M)
Date of decision: 3.5.2016

Kamla Devi and others

...Appellants

Versus

Vinod Kumar and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.SP Chahar, Advocate for the appellants

Respondents No.1 and 2 ex-parte

Mr.Rajesh Verma, Advocate for respondent No.3.

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SNEH PRASHAR, J.

By way of this appeal, appellants-Kamla Devi and others seek enhancement of compensation awarded to them by Motor Accident Claims Tribunal, Jhajjar (for short, "the Tribunal") vide the award dated 20.7.2011 passed in MACT Petition No.80 of 2010 on account of death of Krishan Kumar (husband of appellant No.1, father of appellants No.2 to 5), who lost his life in a vehicular accident.

The submissions made by Mr. SP Chahar, Advocate representing the appellants and Mr.Rajesh Verma, Advocate for respondent No.3 have been heard and record perused.

Learned counsel for the appellants- claimants submits that nothing was awarded on account of loss of future prospects and loss of

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love, care and guidance to the children. Also, a meager amount of Rs.20,000/- each under conventional heads i.e. the loss of consortium and funeral expenses was allowed.

Deceased Krishan Kumar was 53 years aged at the time of his death. There being no substantive evidence to prove the occupation and income of the deceased, learned Tribunal assessed the income of the deceased as Rs.4000/- per month, which calls for no intervention. As per law laid down by Hon'ble Apex Court in **Rajesh and others vs. Rajbir Singh and others, 2013(9) SCC 54** in a case where the deceased was either on fixed salary or was self employed, the future prospects would have to be computed. In the case in hand, as the deceased was 53 years old, 15% is to be added to the actual income of the deceased on account of future prospects.

The deceased was survived by widow, two sons and two daughter. As such, in the considered opinion of this Court, the deduction of 1/4th from the income of the deceased towards his personal and living expenses is not required to be disturbed. The multiplier of '11' applied to the amount of loss of dependency by learned Tribunal is also appropriate.

Perusal of the award shows that nothing was allowed on account of loss of love, care and guidance to the children. Following the law laid down in **Vimal Kanwar and others vs. Kishore Dan and others (2013-3) PLR 776**, Rs.one lac is allowed to the children in equal share on that count. Further, the amount awarded on account of loss of consortium is enhanced to Rs.one lac and also Rs.25,000/- is allowed on account of funeral expenses including the amount already awarded.

Accordingly, the total compensation comes to Rs.6,80,400/- (4,000 (monthly income) + 15% (future prospects) – 1/4th (deduction towards personal and living expenses of the deceased) x 12 x 11 (multiplier) +2,25,000 (under conventional heads including the amount already awarded). The enhanced amount of Rs. 2,44,400/- (6,80,400 -4,36,000) shall be paid to the appellants within two months from the date of the receipt of the certified copy of this judgment, failing which, it shall carry interest at the rate of 7.5% per annum from the date of filing of the appeal, till its realization. Since, the recovery right has already been granted to the Insurance Company by learned Tribunal, the Insurance company shall pay the enhanced amount and then recover the same from the owner of the offending vehicle.

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

3.5.2016 **(SNEH PRASHAR)**
gsv **JUDGE**