In the High Court of Punjab and Haryana at Chandigarh

FAO No. 10063 of 2014(O&M)
Date of Decision:30.9.2016

Pawan Kumar and others

---Appellants

versus

Suresh Kumar and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Sanjeev Majra, Advocate
for the appellants

Mr.Sanjeev Kodan, Advocate
for respondent No. 4

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REKHA MITTAL, J.

The claimants are in appeal seeking enhancement of compensation in regard to death of Bimla Devi in a motor vehicular accident that took place on 20.9.2012.

The Motor Accidents Claims Tribunal, Kaithal (in short "the Tribunal") assessed value of services of the deceased at Rs. 4600/- per month, allowed benefit of future prospects to the extent of 15%, deducted

1/3rd for personal expenses, adopted a multiplier of 11 to compute loss of dependency to the tune of Rs. 3,49, 140/-. In addition, an amount of Rs. 20,000/- has been awarded for last rites and transportation of dead body and Rs. 50,000/- for loss and love and affection making total compensation to Rs. 4,19,140/- payable with interest at the rate of 7.5% pr annum from the date of filing of petition till realization.

Counsel for the appellants has submitted that compensation awarded under conventional heads needs enhancement.

Counsel for the insurance company, on the contrary, has submitted that as per document Mark 'A' photocopy of voter I-card produced on record by the claimants, the deceased was more than 56 years as she is recorded to be 30 years on 1.1.1994. It is further argued that admissible multiplier would be 9 in place of 11 in the light of judgment **Sarla Verma and others vs. Delhi Transport Corporation and another 2009 ACJ 1298**. Another submission made by counsel is that as compensation has been awarded on the basis of value of services of the deceased as a house wife, no increase qua future prospects is admissible.

In response, counsel for the appellants has submitted that the learned Tribunal has rightly held that the deceased was in the age bracket of

50-55 years, therefore, an appropriate multiplier of 11 has been applied.

I have heard counsel for the parties, perused the paper book particularly the award passed by the learned Tribunal.

It is pertinent to mention at the outset that though the Tribunal allowed deduction to the extent of 1/3rd but while making calculation, deduction to the extent of 50% has been applied to compute loss of dependency. The mistake committed by the Tribunal shall be taken care of while computing compensation hereinunder.

Indisputably, the deceased was more than 50 years of age and the claimants are the major children of the deceased. Counsel for the appellants has not disputed that as per photocopy of voter card mark 'A' produced by the claimants, the deceased is mentioned to be 30 years of age as on 1.1.1994. Taking into consideration age of the deceased mentioned in the voter I-card coupled with age of the claimants, the deceased was more than 55 years of age at the time of death. Under these circumstances, admissible multiplier would be 9 in consonance with judgment in **Sarla Verma and others' case (supra)**.

The Tribunal has deducted 1/3rd towards personal expenses out of value of services of the deceased at Rs. 4600/- per month. As the deceased was looking after domestic affairs of a family consisting of three children, value of her services is assessed at Rs. 5000/- per month. No deduction in the circumstances is admissible in view of Division Bench judgment of this Court ***Paramjit Singh and another vs. Dilbagh Singh @ Bagga and others 2014(4) AICJ 65.*** However, as compensation has been awarded by assessing value of services of the deceased, no increase qua future prospects is to be allowed. In view of the above, loss of dependency comes to Rs. 5000 x 12x 9= Rs. 5,40,000/-.

The claimants shall be entitled to Rs. 25000/- for expenses on funeral. They are awarded an amount of Rs. 1.5 lakh in equal share for loss of love and affection of their mother. The total compensation comes to Rs. 7,15,000/- (Rs. 5,40,000 + 1,75,000/-) and the enhanced compensation is Rs. 2,95,860/- payable with interest at the rate of 7.5% per annum to the claimants in equal share, to be deposited in FDRs for a period of two years.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

30.9.2016
PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No