IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2663-2013 (O&M)
Date of decision: 2.5.2016

Gurpreet Kaur and others

...Appellants

Versus

Sukhwant Singh and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.BS Bali, Advocate for the appellants

Mr.Nitin Goel, Advocate for respondents No.1 and 2

Mr.Aditya Kochar, Advocate for
Mr.Ashwani Talwar, Advocate for respondent No.3

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SNEH PRASHAR, J.

The present appeal had been filed by the claimants-appellants seeking increase in compensation awarded to them by learned Motor Accidents Claims Tribunal, Ludhiana (for short 'the Tribunal') vide award dated 26.3.2012 passed in MACT case No.26 of 8.6.2007, on account of death of Bhupinder Singh, husband of appellant No.1, father of appellants No.2 and 3; and son of appellants No.4 and 5 in a road side accident that took place on 21.3.2007.

The submissions made by Mr.BS Bali, Advocate representing the appellants, Mr.Nitin Goel, Advocate for respondents No.1 and 2 and Mr.Aditya Kochar, Advocate for respondent No.3 have been heard and record perused.

Learned counsel for the appellants submitted that the deceased was working as a Welder and Security-man in Farm Parts, C-140, Phase-V, Focal Point, Ludhiana and was earning Rs.20,000/- per month, however, learned Tribunal treated him as a casual labourer and assessed his income as Rs.3000/- per month, which is on the lower side. Even if the father of the deceased is not treated as his dependent, yet there were five dependents, therefore, cut of 1/4th to the income towards personal and living expenses of the deceased should have been applied in view of the law laid down in **Sarla Verma and others vs. DTC and another 2009 ACJ 1298**. He further submitted that no amount computing future prospects was added to the actual monthly income of the deceased; nothing was awarded towards loss of love, care and guidance to the children; the mother of the deceased was allowed no compensation for loss of love and affection; and only a meager amount of Rs.3,000/- towards funeral charges and Rs.8,000/- on account of loss of consortium was allowed.

There is no denial of fact that Bhupinder Singh died due to the injuries suffered by him in a motor vehicular accident caused by respondent No.1- Sukhwant Singh due to his rash and negligent driving of the offending vehicle. As regards income of the deceased, the claimants alleged that he was working as a Welder and Security-man in a private firm, but no substantive and reliable evidence could be led by them to support their assertion. It could also not be proved on record that the deceased was earning Rs.20,000/- per month. As such, the amount of

Rs.3000/- per month assessed as monthly income of the deceased by learned Tribunal, which was the amount a labourer could earn in the year 2007, is adequate and justified.

Perusal of the award shows that no amount was added to the actual monthly income of the deceased computing future prospects. Following the ratio in **Rajesh and others vs. Rajbir Singh and others (2013) 9 SCC 54**, since the deceased was 32 years old, there had to be an addition of 50% to the actual income of the deceased on account of loss of future prospects.

Considering the age of the deceased i.e. 32 years, the multiplier of 16 would be applicable in view of the law laid down in **Sarla Verma's case (supra).** Also learned Tribunal erred in taking deduction of 1/3rd towards personal and living expenses of the deceased. Even if the father is not taken to be dependent of the deceased still there are four dependents namely widow, two children and mother and therefore, the deduction of 1/4th on that count has to be applied.

Perusal of the award shows that a sum of Rs.8,000/- for loss of consortium and Rs.3000/- on account of funeral charges were allowed to the claimants, which is very less and nothing was awarded towards loss of love, care and guidance to the children and loss of love and affection to the mother. Following the law laid down in **Vimal Kanwar and others vs. Kishore Dan and others (2013-3) PLR 776**, a sum of Rs.One lac is allowed to both the children in equal share on account of loss of love, care and guidance and the amount awarded towards loss of consortium and funeral expenses is enhanced to Rs.One lac and Rs.25,000/- respectively. Further a sum of Rs.50,000/- is allowed to the mother on account of loss of love and affection.

Accordingly, the total compensation comes to Rs.10,06,000/- i.e. Rs.3000 (monthly income)+ 50% (future prospects) -1/4rd (deduction on account of living and personal expenses of the deceased) x 12 x 16 (multiplier) + Rs.2,75,000 (conventional heads including already awarded)+ Rs.83,000 (treatment expenses and loss of estate). The enhanced amount i.e. Rs.5,76,000/- (10,06,000- 4,30,000) 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 the filing of the appeal till its realisation.

In the above premises, the present appeal is partly allowed with modification in the impugned award as noticed above.

2.5.2016 **(SNEH PRASHAR)**
gsv **JUDGE**