IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CM No.18531-CII of 2016 in/and
FAO No.120 of 2014 (O&M)

Date of decision : 23.12.2016

Bimla Devi and another

......Appellants

Versus

Bhagwant Parshad & others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Rahul Rampal, Advocate for applicants-appellants.

Mr. R. N. Singal, Advocate for respondent-Insurance Company.

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DARSHAN SINGH, J.

CM-18531-CII-2016

Heard on the application.

In view of the reasons mentioned in the application, same is allowed and the main appeal is restored at its original number and the same is taken up today for hearing.

Main Appeal

The present appeal has been preferred against the award dated 26.07.2013, passed by the learned Motor Accidents Claims Tribunal, Ludhiana (hereinafter called the "Tribunal"), in a petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short the "Act"), whereby the appellants-claimants have been awarded compensation to the tune of ₹3,12,000/- on account of death of their son Anurag Sada caused in the motor vehicular accident which took place on 13.08.2011.

2. The present appeal has been preferred by the appellants-claimants for enhancement of the amount of compensation.

3. I have heard learned counsel for the parties and have gone through the paper-book carefully.

4. Initiating the arguments, learned counsel for the appellants-claimants contended that the deceased was a young man of 19 years of age. The learned Tribunal has not awarded any future prospects towards the income of the deceased. The learned Tribunal has also not awarded any amount to the parents of the deceased towards love and affection. Very less amount has been awarded towards funeral expenses. The multiplier has also been wrongly applied. Thus, he contended that the compensation awarded by the learned Tribunal is highly inadequate.

5. On the other hand, Mr. R. N. Singal, Advocate, learned counsel for the respondent-Insurance Company contended that the learned Tribunal has properly assessed the compensation. The deceased was treated only as a labourer, so no future prospects were required to be added. Thus, there is no scope of any further enhancement.

6. I have duly considered the aforesaid contentions.

7. As per the case of the claimants the deceased was working in a factory at Focal Point, Ludhiana and was earning ₹8000/- per month, but the claimants have not placed on file any salary certificate. Even the name

of the factory where he was stated to be serving was not disclosed. So, the learned Tribunal has rightly treated the deceased to be a labourer and determined his monthly income to be ₹ 4000/- i.e. ₹48,000/- per annum. However, the learned Tribunal has not added any future prospects to the income of the deceased. The deceased was a young man of 19 years of age. He was hale and hearty. His income was bound to increase with the passage of time. So, the future prospects should have been added to the income of the deceased. In view of the age of the deceased, 50% of his income is required to be added towards future prospects. The total income of the deceased comes to ₹72,000/- per annum.

8. The present claim petition has been filed by the parents of the deceased. He was bachelor. So, 50% of the income of the deceased shall be deducted towards his personal and living expenses as per the law laid down in ***Smt.Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77***. The remainder comes to ₹36,000/-. The learned Tribunal has wrongly applied the multiplier taking into consideration the age of the parents (appellants-claimants). As per the law laid down by the Hon'ble Apex Court in case ***Munna Lal Jain and another Vs. Vipin Kumar Sharma and others 2015(3) PLR 304***, the multiplier would be applicable as per the age of the deceased. The deceased was 19 years of age, so the multiplier of 18 shall be applicable. The compensation on account of loss of dependency comes to ₹6,48,000/-.

9. In addition to that, appellant-claimant No.1 Smt. Bimla Devi the mother of the deceased shall also be entitled to a sum of ₹1,00,000/-

towards loss of love and affection of her son. The appellants-claimants shall also be entitled to a sum of ₹25,000/- towards funeral and last rites expenses. Thus, the total amount of compensation payable to the appellants-claimants comes to ₹7,73,000/-.

10. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The total amount of compensation payable to appellants-claimants is enhanced to ₹7,73,000/- from ₹3,12,000/- as awarded by the Tribunal. The appellants-claimants shall be entitled to interest on the enhanced amount from the date of filing the petition till realisation at the rate of 6% per annum. The liability to pay the enhanced amount of compensation and apportionment amongst the claimants shall remain same as determined by the learned Tribunal in the main award.

11. As the matter with respect to future prospects has been referred to the Larger Bench of the Hon'ble Apex Court in case ***National Insurance Company Vs. Pushpa, 2015 (9) SCC 166***, in order to safeguard the interest of respondent No.3-Insurance Company, the amount of compensation under the head future prospects shall be disbursed to the claimants against adequate security in the form of sufficient indemnity bonds to the satisfaction of the learned Tribunal/executing Court, wherein the claimants will undertake that if the Hon'ble Apex Court adjudicates that the casual labourers/persons not holding the permanent jobs will not be entitled to the future prospects, then they will be bound to refund the amount of future prospects received by them on moving the requisite application by the respondent-Insurance Company and the learned Tribunal

will be competent to take the steps without making any reference to this Court.

23.12.2016 **(DARSHAN SINGH)**
sunil yadav **JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No