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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 2850 of 2013(O&M)
Date of Decision: 27.07.2016

Pritam Kaur and others ....Appellants

Vs

Constable Ranjit Singh and others ....Respondents

CORAM: ***HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Mr. Ashwani Arora, Advocate,
for the appellants.

Mr. Sudhir Nar, Advocate,
for respondent Nos. 1 to 3.

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RAJ MOHAN SINGH, J.

[1] This is an appeal filed by the claimants against the award dated 01.09.2012 passed by Motor Accident Claims Tribunal (for short 'the Tribunal'), Chandigarh whereby an amount of compensation was awarded to the claimants/appellants.

[2] Accident in question took place on 14.04.2008 at 6:15 p.m. when Sukhdev Singh deceased was going from his house to Khuda Lahora to his work place on his bicycle on the left side of the road. When he reached near paid parking behind Neelam Cinema, Sector-17, Chandigarh, a Gypsy i.e. offending vehicle came in a rash

and negligent manner from behind and struck against the deceased. As a result of accident, Sukhdev Singh fell down on the road along with his bicycle and received serious injuries. He was removed to PGI, Chandigarh immediately where he died due to injuries, sustained by him in the said accident on 18.04.2008. The matter was reported to the Police and case FIR No. 230 dated 14.04.2008 was recorded under Section 279, 337 IPC initially and after the death of the deceased, offence under Section 304-A IPC was also added.

[3] The claimants filed a claim petition with the allegations that the deceased Sukhdev Singh was aged 46 years and was employed as Security Guard with M/s Daksh Detective & Security Services Private Limited, Chandigarh and was earning Rs. 3,500/- per month as his salary. He used to work as Security Guard in the night and in the day time, he was working as a Cobbler and from this vocation, he was earning additional amount of Rs. 3,000/- per month. Total income of the deceased was pleaded to be Rs. 6,500/- per month. An amount of Rs. 75,000/- was claimed to be incurred by the claimants towards treatment, funeral and last rites of the deceased. The claimants-appellants are widow and sons of the deceased out of which appellant No. 3 was minor at the time of filing of the claim petition.

[3] Under issue No. 1, Tribunal held that the accident in question was on account of rash and negligent driving of driver of the offending vehicle. Registration of criminal case against the driver was sufficient to hold that the drive of the offending vehicle was rash and

negligent in driving the vehicle and causing accident in question. Under issue no. 2, the Tribunal assessed the income of the deceased to be Rs. 4,000/- per month as no official from M/s Daksh Detective & Security Services Private Limited was examined by the claimants in order to prove the employment of the deceased with the aforesaid private company.

[4] Annual income of deceased was calculated as Rs. 48,000/-. Taking into consideration the age of the the deceased, Income towards future prospects was also added to the extent of 30%. The annual income, in this way, was calculated to be Rs. 62,400/- per annum. Applying the ratio laid down in **Sarla Verma and others Vs. Delhi Transport Corporation and another 2009(3) RCR (Civil) 77,** deduction to the tune of 1/3 was applied and the dependency was calculated to be Rs. 41,600/- per annum. The deceased was 48 years of age, therefore, in view of **Sarla Verma's case (supra),** multiplier of 13 was applied and the total amount of compensation was calculated to be Rs. 5,40,800/-. An additional sum of Rs. 10,000/- towards transportation and last rites and another amount of Rs. 10,000/- towards loss of consortium was awarded. In this way, the Tribunal awarded Rs. 5,60,000/-(it should have been Rs. 5,60,800/- as per the calculations).

[5] The claimants have filed this appeal for enhancement. Looking to the daily wage pattern even unskilled labour can be equated at Rs. 5,000/- per month. Even though, the evidence from M/s Daksh Detective & Security Services Private Limited could not be

examined, but the factum of the deceased being a Cobbler was accepted by the Tribunal. Even if, the deceased was treated to be unskilled semi-labourer, his income could not be less than Rs, 5,000/- per month in any case. Therefore, income of the deceased is taken to be Rs. 4334/- (after adding 30% towards future prospects to the assessed monthly income of Rs. 5,000/- and after deducting 1/3rd towards personal expenses of 6500/-). The annual income would come out to be Rs. 4334/- x 12 = Rs. 52,008/-(rounded off Rs. 52,000/) per annum. In this way, dependency of the family comes to Rs. 52,000/-. The deceased was 48 years of age, therefore, multiplier of 13 has to be applied in view of ratio laid down in **Sarla Verma's case (supra).** Thus, the amount came to be calculated as Rs. 6,76,000/- (Rs. 52,000/- x 13). In view of law laid down in **Rajesh and ors. Vs. Rajbir Singh and ors., 2013 (9) SCC 54** , an amount of Rs. 1,00,000/- has to be computed towards loss of love and affection and an amount of Rs. 1,00,000/- has to be computed towards loss of consortium and an amount of Rs. 25,000/- has to be computed towards funeral and last rites. In this way, an amount of Rs. 2,25,000/- has to be computed towards conventional heads. In view of above, total amount of compensation come out to be Rs. 9,01,000/-. This amount has to be paid minus the amount already assessed under the different heads.

[6] In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby re-assessed in view of the judgments of **Asha Verman and ors. Vs. Maharaj Singh**

& ors. 2015 (2) RCR (Civil) 520; Sarla Verma & ors. Vs. Delhi Transport Corporation & anr. 2009 (3) RCR (Civil) Page 77; Rajesh & ors. Vs. Rajbir Singh & ors. 2013 (9) SCC 54 and Munna Lal Jain & anr. Vs.Vipin Kumar Sharma & ors. 2015 (3) Recent Apex Judgments 459. A comparative chart has to be prepared in the following manner :-

Sr. No.	Heads	Assessed by the Tribunal	Assessed by High Court	Difference
1.	Monthly income	Rs.4000/-	Rs.4334/- (after adding 30% towards future prospects to the assessed monthly income Rs.5000/- and after deducting $1/3^{rd}$ towards personal expenses out 6500/-)	
2.	Annual income	3467X12= 41604 (rounded off Rs. 41,600)	4334X12=52,008 (rounded off Rs.52,000/-)	
3.	Amount assessed after applying multiplier of 13	5,40,800/-	52000X13= 6,76,000/-	1,35,200/-
4.	Transportation and last rites	10,000/-	25,000/-	15,000/-
5.	Loss of consortium	10,000/-	1,00,000/-	90,000/-
6.	Loss of love and affection	Nil	1,00,000/-	1,00,000/-

7	Total Compensation	5,60,000/- (as per calculation 5,60,800/-)	9,01,000/-	3,41,000/-

[7] The difference of compensation i.e. Rs.3,41,000/- shall carry interest @ 7.5 % per annum from the date of filing of claim petition till final realization of the amount.

[8] However, observations with regard to apportionment of compensation and deposit of the same in some fixed deposit shall remain the same. However, additional amount of compensation is directed to be paid without insisting upon the proportionate deposit in the fixed deposit.

With the aforesaid modification, the present appeal is disposed of.

(RAJ MOHAN SINGH)
JUDGE

27.07.2016
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Whether Reasoned/Speaking Yes/No

Whether Reportable Yes/No