In the High Court of Punjab and Haryana at Chandigarh

FAO No.1037 of 2015
Date of Decision: 5.12.2016

Subhawati and another

---Appellants

versus

Ashok and others

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: None for the appellant

Mr. Sanchit Punia, Advocate
for respondent No. 2

Mr. Puneet Jain, Advocate
for respondent No. 3

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<u>Rekha Mittal, J.</u>

There is no representation on behalf of the appellants.

Ms. Amandeep Kaur, Advocate is appointed as amicus curiae to assist the Court on behalf of the appellants.

The claimants are in appeal seeking enhancement of compensation in regard to death of Pardeep in a motor vehicular accident that took place on 21.1.2013.

The Motor Accidents Claims Tribunal, Bhiwani (in short "the Tribunal") assessed income of the deceased at Rs. 6700/- per month, deducted 50% for personal expenses, applied a multiplier of 14 to compute loss of dependency at Rs. 5,62,000/-. In addition, an amount of Rs. 20,000/- towards transportation of dead body and performance of last rites has been awarded making total compensation to Rs. 5,82,000/-.

Counsel for the appellants has submitted that income of the deceased assessed by the Tribunal is on lower side as the deceased was doing agriculture work as well as an accountant with M/s Shiv Wood Crafts, Umra Road, Bond Kalan. It is further submitted that the Tribunal has not allowed benefit of increase in income for future prospects. The multiplier adopted by the Tribunal is liable to be enhanced on the basis of age of the deceased in place of age of the parents. Compensation awarded under conventional heads also needs enhancement.

Counsel for the insurance company, on the contrary, has submitted that the Tribunal has assessed income of the deceased at Rs.

6700/- per month on the basis of minimum wage of an unskilled worker fixed by the Government of Haryana whereas at the relevant time, the minimum wage was approximately Rs. 5000/- per month. It is further argued that the claimants are not entitled to benefit of future prospects as the matter in this regard is pending consideration before a Larger Bench of Hon'ble the Supreme Court of India in ***National Insurance Company Limited vs. Pushpa and others*** in a petition for Special Leave to Appeal (Civil)-8058 of 2014.

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

The plea of the claimants is that the deceased was getting Rs. 14,000/- per month as salary by working part time with M/s Shiv Wood Crafts as an accountant-cum-computer operator. Additionally, he was doing agriculture work and earning Rs. 15,000/- per month from agriculture.

The claimants examined Bhupinder Singh partner of M/s Shiv Wood Crafts to prove employment and salary of the deceased. The witness brought registration certificate of the firm Ex. P-20 and salary certificate Ex. P-21. He failed to produce any supporting document to establish that the deceased was working with the firm at a salary of Rs. 14,000/- per month. The learned Tribunal on a detailed consideration of the facts elicited in his cross examination has negated plea of the claimants in view of discussion made in para 22 of the award. I do not find any reason to interfere in the factual findings recorded in this regard. However, it has been proved on record that the deceased was owner of land reflected in the jamabandi Ex. PH. No doubt, land owned by the deceased is available with his family but still his income is to be assessed by taking into consideration value of his services as an agriculturist. Keeping in view wage of an unskilled worker coupled with that the deceased was managing land owned by him, I do not find any reason to interfere in assessment qua income by the Tribunal. Merely because reference is pending before a Larger Bench is not sufficient to deny benefit of future prospects unless the judgment in ***Rajesh and others vs. Rajbir Singh and others 2013(3) RCR (Civil) 170*** is varied or set aside. The claimants shall be entitled to loss of dependency by applying a multiplier of 18 in view of age of the deceased. In this context, reference can be made to judgments of Hon'ble the Supreme Court of India **Sarla Verma and others vs. Delhi Transport Corporation and another 2009 ACJ 1298**, **Reshma Kumari and others vs. Madan Mohan and another 2013(2) RCR(Civil) 660** and **Muna Lal Jain**

vs.Vipin Kumar Sharma, 2015 (3) RCR(Civil) 447. After extending benefit of future prospects and applying multiplier of 18, loss of dependency comes to Rs. 10050 x 15 x12 = Rs.18,09,000 – Rs.9,04,500/- =Rs. 9,04,500/-.

Under conventional heads, an amount of Rs. 50,000/- for loss of love and affection to the mother and Rs. 25,000/- each for loss of estate and expenses on funeral and last rites is awarded. The total compensation comes to Rs. 10,04,500/- and the enhanced compensation is Rs.4,22,500/-. The enhanced compensation shall carry interest at the rate of 7.5% per annum from the date of petition till realization payable exclusively to mother of the deceased.

Appeal stands partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

5.12.2016
PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No