In the High Court of Punjab and Haryana at Chandigarh

FAO No.1717 of 2014
Date of Decision: 27.9.2016

Usha Rani and another

---Appellants

versus

Arvind and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. K.S.Dhanora, Advocate
for the appellants

Mr. Vivek Khatri, Advocate
for respondent Nos. 1 and 2

Mr. Sanjeev Goyal, Advocate
for respondent No. 3

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

The parents of Vikram, who met with an unfortunate death at a young age of about 15 years, are in appeal seeking enhancement of compensation.

The Motor Accidents Claims Tribunal, Hissar (in short "the Tribunal") assessed income of the deceased at Rs. 4817.17/- per month, allowed benefit of future prospects to the extent of 30%, deducted 50% for personal expenses, adopted a multiplier of 14 to compute loss of dependency to the tune of Rs. 5,26,008/-. In addition, an amount of Rs. 10,000/- each for funeral expenses & transportation charges and loss of estate and love and affection has been awarded making total compensation to the tune of Rs. 5,46,008/- payable with interest at the rate of 7% per annum from the date of petition till realization.

Counsel for the appellant has submitted that benefit of future prospects should have been allowed to the extent of 50%. The Admissible multiplier and compensation under conventional heads may be enhanced.

Counsel for the insurance company has submitted that as the Tribunal has already allowed more compensation qua loss of dependency, the appellants are not entitled to any enhancement. He has further submitted that Hon'ble the Supreme Court of India allowed compensation to the tune of Rs. 4,50,000/- to the parents of a child aged about 10 years in the case ***Krishan Gopal and another vs. Lala and others, 2013(4)RCR (Civil) 276.***

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

The deceased was a student of class IX and the Tribunal assessed his income by taking into consideration wage of an unskilled worker. Keeping in view loss of dependency assessed by the Tribunal by taking into consideration minimum wage plus 30% towards future prospects, I do not find any reason to interfere in assessment qua loss of dependency per month.

So far as contention of counsel for the insurance company by relying upon judgment in ***Krishan Gopal and another's case (supra),*** the same cannot be made applicable to the facts of the present case as in the referred authority, the child was 10 years old and Hon'ble the Supreme Court assessed his notional income at Rs. 30,000/- per annum. However, as the deceased was upto 15 years of age, admissible multiplier is 15 in place of 14. The loss of dependency comes to Rs. 37,572 x 15 = Rs.5,63,580/-.

Under conventional heads, Usha Rani, mother of the deceased is allowed an amount of Rs. 50,000/- for loss of love and affection. The claimants shall be entitled to Rs. 20,000/- for funeral expenses. The total compensation is Rs. 6,43,580/- (Rs. 5,63,580 + 50,000 + 20,000+ 10,000) and the enhanced compensation is Rs. 97,572/- (Rs. 6,43,580 minus Rs.5,46,008/-). The additional amount shall be payable with interest at the rate of 7.5% per annum from the date of petition till realization exclusively to mother of the deceased.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

27.09.2016
PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No