IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1309 of 2015
Date of Decision-20.10.2016

Bimla Devi @ Golo ... Appellant
Versus
Mukesh Chander and others ... Respondents

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

Present: Mr. Vinod K. Kanwal, Advocate for
Mr. Ashit Malik, Advocate
for the appellant.

Ms. Vandana Malhotra, Advocate
for respondent No.3-Insurance Company.

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RAJ MOHAN SINGH, J.

[1]. Claimant-Bimla Devi has preferred this appeal for enhancement of compensation granted by the Motor Accident Claims Tribunal, Karnal (for short "Tribunal').

[2]. Claimant filed a claim petition under Sections 166 and 140 of the Motor Vehicles Act (for short 'the Act') seeking compensation to the tune of Rs.50,00,000/- on account of death of her son Harpal Singh son of Sukhbir Singh in a motor vehicular accident.

[3]. Accident took place on 15.04.2013 when deceased Harpal Singh was going from village Ucholia towards his house on motorcycle at a moderate speed at about 5.30 p.m. When he reached on National Highway near Nail Pulia village Mohidiyapur, offending vehicle came from Sitapur side in a rash and negligent manner and hit the motorcycle by coming on wrong hand side of

the road. Due to impact, Harpal Singh fell down and received multiple serious and grievous injuries on his person. Harpal Singh died at the spot. Harpal Singh was 20 years of age at the time of accident and was having good health. He was agriculturist and used to earn Rs.30,000/- per month. An amount of Rs.50,000/- was claimed to be spent on his transportation and last rites.

[4]. Claim petition was contested by the respondents.

[5]. Under issue No.1, Tribunal found that the accident in question took place due to rash and negligent driving of driver of offending vehicle. Under issue No.2, Tribunal assessed the income of deceased to be Rs.5,000/- per month for want of any evidence of income from agricultural work. In view of ratio laid down in ***Rajesh and others Vs. Rajbir Singh and others, 2013(3) RCR (Civil) 171*** and in view of age of the deceased, Tribunal assessed monthly income after adding future prospects to the extent of 50%. The monthly dependency was calculated to be Rs.3750/- per month after adding 50% towards future prospects and deducting 50% towards self expenses. The annual dependency of the claimant came to be calculated as Rs.45,000/- (3750 X 12). A multiplier of 18 was applied as per ratio laid down in ***Smt. Sarla Verma Vs. Delhi Transport Corporation 2009 (3) RCR (Civil) 77*** and the amount was calculated to be Rs.8,10,000/-. To this compensation, an amount of Rs.1,00,000/- towards loss of love and affection and an amount of Rs.25,000/-

towards funeral expenses were added. In this way, total amount of compensation came to be calculated as Rs.9,35,000/-. This amount was ordered to be paid by respondents No.1 and 2 along with respondent No.3 jointly and severally along with interest @ 8 % per annum from the date of filing of the claim petition till final realization of the amount. Other terms and conditions were also imposed.

[6]. I have heard learned counsel for the parties.

[7]. The income of the deceased has to be calculated at par with the minimum wages as per instructions issued by the Deputy Commissioner of the respective Districts. In any case, minimum wages prevailing in Districts cannot be less than Rs.6000/- per month in case of unskilled person. For semi skilled and skilled person, the daily wage may be on higher side. In my considered view, the income of the deceased cannot be treated to be less than Rs.6000/- per month in any case. Based on this income, 50% of the income has to be added as future prospects, thereby making Rs.9000/- as income to which deduction to the tune of 50% has to be applied towards personal expenses of the deceased. In this way, monthly dependency of the claimant is assessed to be Rs.4500/- i.e Rs.54,000/- per annum (4500 X 12). After applying multiplier of 18 to this amount (Rs.54,000/-) keeping in view the age of the deceased i.e. 20 years and in view of ratio laid down in ***Smt. Sarla Verma's case (supra),*** the

amount would come out to be Rs.9,72,000/-. The claimant is also entitled to a sum of Rs.1,00,000/- towards loss of love and affection and additional amount of Rs.1,00,000/- towards loss of estate besides Rs.25,000/- towards last rites. Therefore, claimant is entitled to a sum of Rs.2,25,000/- (1,00,000+1,00,000+25,000) towards aforesaid conventional heads. In this way, total amount of compensation would come out to be Rs.11,97,000/-.

[7]. In view of above, the amount of compensation is worked out as under:-

Sr. No.	Heads	Amount awarded by the Tribunal	Amount assessed in appeal	Difference
1	Monthly income	3750/- (after adding 50% towards future prospects and deducting 50% towards personal expenses	4500/- (after adding 50% towards future prospects and deducting 50% towards personal expenses	
2	Annual dependency	45,000/- (3750 X 12 =45,000)	54,000/- (4500 X 12 =54,000)	
3	Compensation after multiplier	8,10,000/-	9,72,000/-	1,62,000/-
4	Love and affection	1,00,000/-	1,00,000/-	Nil
5	Loss of estate	Nil	1,00,000/-	1,00,000/-
6	Last rites	25,000/-	25,000/-	Nil
7.	Total Compensation	9,35,000/-	11,97,000/-	2,62,000/-

[8]. The enhanced amount i.e. 2,62,000/- shall carry the same rate of interest i.e. 8 % per annum from the date of filing of the claim petition till final realization of the amount as awarded by the Tribunal. Remaining terms and conditions of the award also remained the same.

[9]. With the aforesaid modification, the present appeal stands disposed of.

(RAJ MOHAN SINGH)
JUDGE

20.10.2016
Prince

Whether reasoned/speaking Yes/No

Whether reportable Yes/No