IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2016-2014 (O&M)
Date of decision: 11.3.2016

Urmila and others

...Appellants

Versus

Pardeep Kumar and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Sandeep Verma, Advocate for the appellants

Mr.Chander Kant Rana, Advocate for respondents No.1 & 2

Mr.Ajay Singla, Advocate for respondent No.3.

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SNEH PRASHAR, J.

The present appeal has been filed by the claimants-appellants for enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (for short 'the Tribunal'), vide award dated 2.7.2013, on account of the death of Mem Pal, husband of appellant No.1, father of appellants No.2 to 4 and son of appellants No.5 and 6, in a motor vehicular accident.

The submissions made by learned counsel for the parties have been heard and record perused.

It is submitted by learned counsel for the appellants that the deceased was a proficient mason and was running dairy business and used to earn Rs.20,000/- per month from all sources, but learned Tribunal wrongly assessed his income as Rs.4500/- per month. Learned counsel also asserted that no amount was added to the income of the deceased computing future prospects. Also nothing was awarded for loss of love, care and guidance to the minor children. The amount awarded under conventional heads i.e. loss of consortium, loss of estate and funeral expenses is also inadequate.

Controverting the above submissions, learned counsel appearing for the respondents submitted that the compensation awarded by learned Tribunal to the claimants-appellants is just and adequate.

Admittedly, Mem Pal died due to the injuries sustained by him in a motor vehicular accident caused by respondent No.1-driver of the offending vehicle. As regards income of the deceased, the claimants alleged that he was a mason by profession and was running dairy business but no substantive and reliable evidence could be led by them to prove his avocation and income. As such, the amount of Rs.4500/- per month assessed as income of the deceased by learned Tribunal, which was the amount an unskilled labourer could earn in the year 2012, is adequate and justified.

As per driving licence Ex.P2 of the deceased, he was more than 37 years of age at the time of his death. Following the law laid down by Hon'ble Apex Court in **Sarla Verma and others vs. DTC and another 2009 ACJ 1298**, learned Tribunal applied the multiplier of 15, which is appropriate.

However, perusal of the award shows that no amount was added to the income of the deceased computing future prospects. As per law laid down by Hon'ble Supreme Court in **Rajesh and others vs. Rajbir Singh and others (2013) 9 SCC 54**, the deceased being 37 years of age at the time of accident, an addition of 50% to his actual income computing future prospects is to be allowed.

No amount has been awarded towards loss of love, care and guidance to the children. The untimely death of Mem Pal was a great shock to his family as he was the sole bread earner. Following the law laid down in **Rajesh and others's case (supra),** in my considered opinion, the ends of justice would be served, if a sum of Rs.one lac is allowed to the minor children on the said count. In addition to the same Rs. one lac towards loss of consortium to the wife (including the amount already awarded under this head); Rs.50,000/- on account of loss of love and affection to the mother on her furnishing a live certificate, is allowed. The amount awarded on account of last rites expenses is also enhanced from Rs.5,000/- to Rs.25,000/-.

Accordingly, the total compensation comes to

Rs.11,91,250/- i.e. Rs.4500/- (monthly income) + 50% (future prospects)- 1/4th (deduction towards personal and living expenses of the deceased) x 12 x 15 (multiplier) + Rs.2,80,000 /- (under the conventional heads including the amount already awarded). The enhanced amount of Rs.5,68,750/- (11,91,250-6,22,500 already awarded) shall be paid to the claimants/appellants within two months from the date of receipt of the certified copy of this judgment, failing which, the same shall carry interest @ 7.5 % per annum from the date of filing of the appeal till its realisation.

With the above modification in the impugned award, the present appeal is partly allowed.

11.3.2016 **(SNEH PRASHAR)**
gsv **JUDGE**