IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2075-2014 (O&M)
Date of decision: 05.02.2016

Jasbir Kaur and others

...Appellants

Versus

Gian Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Tushant Deep Garg, Advocate,
for Mr. Vijay Lath, Advocate,
for the appellants.

None for respondent Nos.1 and 2.

Mr. Paul S. Saini, Advocate,
for respondent No.3.

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JITENDRA CHAUHAN, J.

The present appeal has been preferred by the claimant-appellants, seeking enhancement of the amount of compensation awarded vide impugned award dated 30.07.2013, passed by the learned Motor Accident Claims Tribunal, Barnala (for short, 'the Tribunal').

The learned counsel contends that the learned Tribunal erred in applying the deduction to the extent of $1/3^{rd}$, keeping in view the number of claimants. The multiplier applied is also on the lower side. Nothing has been provided for future prospects. It is further submitted that the compensation awarded on account of loss of consortium etc. is also on the lower side.

On the other hand, the learned counsel for the respondents have vehemently opposed the present appeal.

I have heard learned counsel for the parties and gone through the record.

In the instant case, the deceased was 35 years of age at the time of the accident. He left behind his wife and three minor children. Therefore, keeping in view the law laid down by Hon'ble the Apex Court in ***Smt. Sarla Verma Vs. DTC (2009) 6 SCC 121***, the deduction of 1/3rd towards personal expenses shall be to the extent of 1/4th. Keeping in view the age of the deceased, the multiplier of 15 is enhanced to 16. The learned Tribunal has also not awarded any compensation towards the future prospects of the deceased. Therefore, an increase of 50% is ordered to the actual income of the deceased on account of future prospects in view of the law laid down by Hon'ble the Apex Court in ***Rajesh and others Vs.Rajbir Singh and others, (2013) 9 SCC 54***.

In this way, the compensation amount on account of 'loss of dependency' would come to Rs.54,000 + 50% X ¾ X 16 = Rs.9,72,000/-, as against the amount of Rs.5,40,000/-, assessed by the learned Tribunal under this head.

Furthermore, the amount of Rs.5,000/-awarded to the claimant-wife, towards 'loss of consortium' is enhanced to Rs.1,00,000/-, whereas, the claimant-children of the deceased are also awarded Rs.1,00,000/-, for 'loss of love, care and guidance'. The amount of Rs.5,000/- granted for funeral expenses is enhanced to Rs.25,000/-.

In view of the above, the claimant-appellants are held entitled to the enhanced compensation of Rs.6,47,000/- [Rs.4,32,000/- (enhancement towards loss of dependency) + Rs.95,000/- (enhanced towards 'loss of consortium', payable to the wife of the deceased only) + Rs.1,00,000/- (loss of love, are and guidance, payable to the minor children of the deceased, in equal shares) + Rs.20,000/- (enhancement towards funeral expenses)], as indicated above, over and above the amount already awarded by the learned Tribunal, which shall be payable within a period of 45 days from the date of receipt of a certified copy of this judgment, failing which, they shall also be entitled to interest @ 7.5% per annum, from the date of filing the present appeal, till its realization.

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

05.02.2016 **(JITENDRA CHAUHAN)**
atulsethi **JUDGE**