IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2077-2014
Date of decision: 3.5.2016

Kamlesh Rani and others

...Appellants

Versus

Narinder Pal Singh and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.DK Narula, Advocate for the appellants

Ms.Manjari Joshi, Advocate for respondent no.2

Mr.Neeraj Khanna, Advocate for respondent No.3.

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SNEH PRASHAR, J.

The present appeal has been filed by Kamlesh Rani and others, claimants-appellants, seeking enhancement of compensation awarded to them by Motor Accident Claims Tribunal, Sirsa (for short, "the Tribunal") vide the award dated 9.12.2013 passed in Claim Petition No.93 of 2012, on account of death of Sahab Ram, husband of appellant No.1, father of appellants no.2 to 4 and son of appellants no. 5 and 6, who lost his life in a vehicular accident.

The submissions made by Mr. DK Narula, Advocate representing the appellants, Ms.Manjari Joshi, Advocate for respondent No.2 and Mr.Neeraj Khanna, Advocate for respondent No.3 have been heard and record perused.

It is submitted on behalf of the appellants that they produced the driving licence of the deceased 'Mark A', which proves that the deceased was a professional driver and used to earn Rs.10,000/- to 12,000/- per month, but learned Tribunal assessed his income as Rs.6,000/- per annum, which is on the lower side. No amount was added to the income computing future prospects of the deceased. Also the amount awarded under the conventional heads is inadequate.

Learned counsel representing the respondents controverting the above arguments has taken the stand that the compensation awarded by learned Tribunal is just and appropriate.

It is not in dispute that Sahab Ram died due to the injuries suffered by him in a road side accident. There is no evidence except the bald statement of PW1 Kamlesh Rani, wife of the deceased, that the deceased was a professional driver holding a valid and effective driving licence and used to earn Rs.10,000/- to Rs.12,000/- per month. The deceased was neither proved to be owner of any transport vehicle i.e. taxi etc. nor any witness, whom with the deceased was employed as driver was examined. In the absence of some documentary evidence with regard to earnings of the deceased, learned Tribunal treating him as a skilled labourer assessed his income as Rs.6,000/- per month, which appears to be justified.

As per postmortem report Ex.P2, the deceased was 31/32 years old, therefore, following the law laid down in **Sarla Verma and others vs. DTC and another 2009 ACJ 1298**, learned Tribunal has rightly applied the multiplier of 16. There being six claimants namely widow, two sons, one daughter and parents, the deduction of 1/4th to the actual income towards personal and living expenses of the deceased was made, which is in consonance with the law laid down in Sarla Verma and others' case (supra).

Further following the ratio of **Rajesh and others vs. Rajbir Singh and others (2013) 9 SCC 54**, as the deceased was 31-32 years of age, an increase of 50% to the actual income of the deceased computing his future prospects is to be added.

Untimely death of Sahab Ram was a great shock to the claimants because he was the sole bread earner of the family. In view of pronouncement of Hon'ble Apex Court in **Vimal Kanwar and others vs. Kishore Dan and others 2013 (2) RCR (Civil) 945** the amount awarded for loss of consortium is enhanced to Rs.One lac and also for loss of love, care and guidance the children are allowed Rs.one lac in equal shares (including the amount of Rs.20,000/- already awarded). Rs. 50,000/- is allowed to the mother on account of loss of love and affection and the amount awarded as expenditure on last rites is enhanced to Rs.25,000/-. The amount awarded under the head of loss of estate will remain the same.

Accordingly, the total compensation comes to Rs. 15,86,000/- i.e. Rs.6000/- (monthly income) + 50 % (future prospects)-1/4th (deduction towards personal and living expenses of the deceased) x 12 x 16 (multiplier) + Rs.2,90,000 /- (conventional heads including already awarded). The enhanced amount of Rs.6,52,000/- (15,86,000-9,34,000 already awarded) shall be paid to the 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.

In view of the above, the present appeal is partly allowed and the award is modified to the above extent.

3.5.2016 **(SNEH PRASHAR)**
gsv **JUDGE**