In the High Court of Punjab and Haryana at Chandigarh

Date of Decision:15.11.2016

FAO No. 4471 of 2013

Surinder Kaur

---Appellant

vs.

Lakhbir Singh and others

---Respondents

FAO No. 4481 of 2013

Surinder Kaur

---Appellant

vs.

Lakhbir Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr.Sagar Aggarwal, Advocate
for the appellants in both the appeals

Mr. Balwinder Singh Brar, Advocate
for respondent Nos. 1 and 2 in both the appeals

Mr. Pardeep Kumar, Advocate
for respondent No.3 in both the appeals

Mr. Sanjeev Kodan, Advocate
for respondent No. 5 in both the appeal

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Rekha Mittal, J.

This order will dispose of FAO Nos. 4471 and 4481 of 2013 as these have emerged out of the same award dated 12.11.2012 passed by the Motor Accidents Claims Tribunal, Panipat (in short “the Tribunal”) whereby compensation has been awarded in regard to death of Paramjit Singh and Vikaramjit Singh sons of Sukhvinder Singh @ Sukha Singh in a motor vehicular accident that took place on 10.1.2010.

The Tribunal has awarded the same compensation in regard to death of each of the victims by assessing monthly income at Rs. 6000/- per month, deducting 50% towards personal and living expenses, adopting a multiplier of 14 to compute loss of dependency at Rs. 5,04,000/-. In addition, an amount Rs. 20,000/- for loss of love and affection and Rs. 10,000/- each for transportation and funeral and last rites has been awarded making total compensation to the tune of Rs. 5,44,000/-.

FAO Nos. 4471 and 4478 of 2013

Counsel for the appellant has submitted that the Tribunal has not allowed benefit of increase in income for future prospects to the extent of 50%. The appropriate multiplier in the light of judgment of Hon'ble the Supreme Court of India ***Sarla Verma and others vs. Delhi Transport Corporation and another 2009(3) RCR(Civil) 77, Reshma Kumari and others vs. Madan Mohan and another 2013(2) RCR(Civil) 660*** and ***Muna Lal Jain vs. Vipin Kumar Sharma 2015(3) RCR(Civil) 447*** would be 18 as the deceased were in the age bracket of 16-25 years. Compensation awarded under conventional heads needs to be enhanced in the light of judgments of the Apex Court ***Rajesh and others vs. Rajbir Singh and others (2013)3 RCR (Civil) 170*** and ***Vimal Kanwar and others vs. Kishore Dan and others 2013(2)RCR(Civil)945*** .

Counsel representing the two insurance companies held liable to pay compensation proportionately have submitted that Tribunal assessed income of the deceased at Rs. 6000/- by taking into consideration the increase of daily wage every 10 years. It is argued that as per the minimum wage fixed by the State of Haryana available in January 2010, it would be approximately Rs. 4000/- per month. In the alternative, it has been argued that if loss of dependency is to be computed by taking into consideration income at Rs. 6000/- per month, claimants should not be allowed benefit of future prospects when otherwise the matter with regard to future prospects is pending before a Larger Bench in view of reference made in ***National Insurance Co. Limited vs. Pushpa and others*** in a petition for Special Leave to Appeal (Civil)- 8058 of 2014.

With regard to multiplier, counsel has submitted that the Apex Court in ***Y.P.Shakuntla and another vs. Manager, Reliance General Insurance Company Limited 2016 ACJ 2400*** has affirmed multiplier of 15 as per age of mother of the deceased in view of observations recorded in para 4 of the judgment. In ***Nath Natha Ladha Harijan and others vs. Valji Bhara Harijan and others 2016 ACJ 2398*** the Supreme Court affirmed multiplier adopted in a case where one Valji Ladha Harijan aged 19 years died in a motor vehicular accident.

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

Paramjit Singh and Vikramjit Singh sons of Surjit Kaur and Sukhvinder Singh met an unfortunate end on the fateful day of January 2010. As has been noticed hereinbefore, the Tribunal assessed the same amount of compensation of Rs. 5,44,000/- in each of the cases. The Tribunal assessed income of each of the deceased at Rs. 6000/- per month in view of its observations recorded in para 23 of the award by taking into account earning of a daily wager at Rs. 5000/- per month and allowing benefit of Rs. 1000/- qua increase of daily wage after every 10 years. A perusal of the notification issued by the State of Haryana fixing minimum wage available in January 2010, income of the deceased is assessed at Rs. 4350/- per month. After allowing benefit of increase in income for future prospects to the extent of 50% and deducting 50% for personal and living expenses, loss of dependency per annum is calculated at Rs. 39,156/-

So far as the multiplier of 15 adopted by the Tribunal by taking into consideration age of mother of the deceased even by referring to judgment of the Apex Court ***Sarla Verma and others' case (supra),*** the same is liable to be modified. In **Sarla Verma and others'** ***case (supra)***, Hon'ble the Apex Court with an intention to bring uniformity in the process of assessing just, reasonable and equitable compensation has laid down certain principles with regard to deduction, multiplier and additional income for future prospects in case of a permanent employee. The Court has held that deduction would be 50% in case the deceased happens to be unmarried and claimant being the mother. Keeping in view enunciation of law laid down in ***Sarla Verma and others' case (supra)*** reiterated in ***Reshma Kumari and others' case (supra)*** and ***Muna Lal Jain's case (supra)***, the appropriate multiplier in the circumstances would be 18 in view of age of the deceased. With due regards to the two judgments referred to by counsel for the insurance company, these do not lay down as a preposition of law the multiplier to be adopted in case the deceased happens to be an unmarried person nor there is reference to the decision of three Judge bench in ***Reshma Kumari and others' case (supra),*** though ***Muna Lal Jain's case (supra)*** was decided subsequent to the decision in the referred cases. After adopting a multiplier of 18, loss of dependency comes to Rs. 7,04,808/- (Rs.39,156 x 18).

Under conventional heads, the claimants shall be entitled to an amount of Rs. 50,000/- for loss of love and affection, Rs. 25,000/- for expenses on funeral and transportation and Rs. 25,000/- for loss of estate. The total compensation in each case comes to Rs. 8,04,808/- and enhanced compensation is Rs. 2,60,808/- (8,04,808 -5,44,000) payable with interest at the rate of 7.5% per annum from the date of petition till realization.

The appeals are partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

15.11.2016
paramjit

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No