IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No.4615 of 2013
Date of decision : 18.10.2016

Giano Devi and others

......Appellants

Versus

Hariom and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Inderjeet Singh, Advocate for appellants.

None for respondents No.1 and 2.

Ms. Surinder Kaur, Advocate for
Mr. Vishal Goel, Advocate for respondent No.3.

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DARSHAN SINGH, J.

The present appeal has been preferred by the appellants-claimants against the award dated 24.01.2013, passed by learned Motor Accidents Claims Tribunal, Ambala (hereinafter called the "Tribunal"), vide which they has been awarded compensation to the tune of ₹9,58,000/- on account of the death of Ram Pal in the motor vehicular accident which took place on 03.06.2011.

2. The present appeal has been preferred by the appellants-claimants for the enhancement of the amount of compensation.

3. I have heard learned counsel for the parties and gone through the paper-book meticulously.

4. Learned counsel for the appellants-claimants contended that the learned Tribunal has not added any future prospects to the income of the deceased. The deceased was a Centre Government employee. His pay was

definitely to rise with the passage of time. Less amount of compensation has been awarded under other conventional heads. No amount of compensation has been awarded to appellants-claimants No.2 to 4 on account of loss of love, care and guidance of their father. He further contended that learned Tribunal has wrongly applied the split multiplier which is contrary to the law. To support his contentions, he relied upon case ***Sri. K.R. Madhusudhan and others Vs. Administrative Officer and another 2011(2) ACJ 743***.

5. On the other hand, learned counsel for respondent-Insurance Company contended that as the deceased was a government employee and after his death his family members are getting the family pension, so no future prospects were required to be added to the income of the deceased. She further contended that just amount of compensation has been awarded to the appellants-claimants under all the relevant heads. She further contended that learned Tribunal has rightly applied the split multiplier as the deceased was going to retire shortly and, thereafter, his income was bound to reduce. Thus, she contended that the compensation awarded by the learned Tribunal is just and appropriate.

6. I have duly considered the aforesaid contentions.

7. The learned Tribunal has determined the income of the deceased to be Rs.17,000/- per month. The deceased was a Class-IV employee in the General Post Office, Ambala City. Thus, he was the employee of the Centre Government. The appellants-claimants have also examined PW-3 Jatinder Kumar, Postal Assistance, Department of Post

Head Post Office, Ambala City to prove the employment of the deceased. As the deceased was a Centre Government employee, the judicial notice can be taken of the fact that he was to get rise in his salary with the passage of time by earning the regular increments, increase in dearness allowance and even the pay revision. It is also a fact that the salary of the employees of the Centre Government has been revised recently on the basis of the report of the Seventh Pay Commission giving the substantial rise in their salaries. So, the learned Tribunal was required to add future prospects to the income of the deceased. As per the findings of the learned Tribunal the deceased was more than 55 years and less than 56 years of age at the time of his death. So, 15% of the salary of the deceased should have been added towards the future prospects. Thus, the total income of the deceased comes to ₹19,550/- (17,000 + 2550) i.e. ₹2,34,600/- per annum. The deceased had a widow and three children, who were dependent upon his income, so 1/4th of his income shall be deducted towards his personal and living expenses. The remainder which was available to the claimants comes to ₹1,75,950/-.

8. The learned Tribunal has applied the split multiplier. The learned Tribunal has mentioned that since the deceased was going to retire beyond the age of 58 years *i.e.* the age of superannuation, so the actual loss of dependency has only been multiplied for a period of six years. This approach of the learned Tribunal is erroneous in view of the ratio of law laid down by Hon'ble Apex court in case ***Sri. K.R. Madhusudhan and others Vs. Administrative Officer and another*** (supra). So, the multiplier of 9 shall be applicable. Thus, the total loss of dependency comes to ₹

15,83,550/-.

9. The learned Tribunal has also awarded less compensation for funeral and last rites expenses as well as loss of consortium. The amount of compensation awarded for transportation of the dead body, funeral and last rites expenses is enhanced from ₹10,000/- to ₹25,000/-. Similarly, the loss of consortium awarded to appellant-claimant No.1 is enhanced from ₹10,000/- to ₹1,00,000/-. The learned Tribunal has not awarded any amount of compensation to appellants-claimants No.2 to 4 on account of loss of love, care and guidance of their father. So, appellants-claimants No.2 to 4 shall also be entitled to ₹1,00,000/- as compensation on account of loss of love, care and guidance of their father. In this way, the total amount of compensation payable to the appellants-claimants comes to ₹18,08,550/-.

10. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation payable to appellants-claimants is enhanced to ₹18,08,550/- from ₹9,58,000/- as awarded by the Tribunal. The appellants-claimants shall also be entitled to interest at the rate as determined by the learned Tribunal on the enhanced amount from the date of filing the petition till realisation. The liability to pay the enhanced amount of compensation and the apportionment amongst the claimants shall remain same as determined by the learned Tribunal in the main award.

18.10.2016 **(DARSHAN SINGH)**
sunil yadav **JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No