IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-5122-2013(O&M)
Date of decision: 11.4.2016

Krishna and another

...Appellants

Versus

Tarsem Singh @ Bittu and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Amit Singla, Advocate for the appellants

Mr.Amit Chaudhary, Advocate for respondent No.1

Mr.Subhash Goyal, Advocate for respondent No.3

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SNEH PRASHAR, J.

The present appeal has been filed by the claimants-appellants seeking enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, Fatehabad (for short 'the Tribunal') vide award dated 13.8.2012 on account of death of Randhir, son of the appellants in a motor vehicular accident that took place on 14.7.2010.

The submissions made by Mr.Amit Singla, Advocate representing the appellants, Mr.Amit Chaudhary, Advocate for respondent No.1 and Mr.Subhash Goyal, Advocate for respondent No.3 have been heard and record perused.

Learned counsel for the appellants submitted that the deceased was a bachelor and was 19 years old. Learned Tribunal applied the multiplier according to the age of the parents, which is in contravention to the law laid down in **Amrit Bhanu Shali and others vs. National Insurance Co. Ltd. 2012 (4) RCR (Civil) 343**, according to which, the multiplier should be applied as per the age of the deceased. Nothing was added to the income computing the future prospects. Also the amount awarded under the conventional heads is inadequate.

On the other hand, learned counsel for respondents No.1 and 3 resisting the prayer of the appellants submitted that learned Tribunal considering the law laid down in **New India Assurance Company Ltd. vs. Smt. Shanti Pathak and others 2007(3) RCR (Civil) 593** has rightly applied the multiplier of 15 as per the age of the parents of the deceased as he was a bachelor. They further submitted that no amount should be added towards future prospects when the deceased was not in a permanent job. The amount under the head of loss of consortium has been wrongly awarded.

Admittedly, Randhir, son of the appellants died due to the injuries suffered by him in a road side accident. He was aged 19 years and was a bachelor at the time of his death. In the absence of any substantive evidence with regard to the income of the deceased, learned Tribunal has rightly assessed his income as Rs.5000/- per month.

Regarding applying of suitable multiplier, in **Reshma Kumari and others vs. Madan Mohan and another 2013(2) RCR (Civil) 660**, the Hon'ble Supreme Court has held as under:-

> 33. We have already noticed the table prepared in Sarla Verma for the selection of multiplier. The table has been prepared in Sarla Verma having regard to the three

decisions of this Court, namely, Susamma Thomas, Trilok Chandra and Charlie for the claims made under Section 166 of the 1988 Act. The Court said that multiplier shown in Column (4) of the table must be used having regard to the age of the deceased. Perhaps the biggest advantage by employing the table prepared in Sarla Verma is that the uniformity and consistency in selection of the multiplier can be achieved. The assessment of extent of dependency depends on examination of the unique situation of the individual case. Valuing the dependency or the multiplicand is to some extent an arithmetical exercise. The multiplicand is normally based on the net annual value of the dependency on the date of the deceased's death. Once the net annual loss (multiplicand) is assessed, taking into account the age of the deceased, such amount is to be multiplied by a 'multiplier' to arrive at the loss of dependency. In Sarla Verma, this Court has endeavoured to simplify the otherwise complex exercise of assessment of loss of dependency and determination of compensation in a claim made under Section 166. It has been rightly stated in Sarla Verma that claimants in case of death claim for the purposes of compensation must establish (a) age of the deceased; (b) income of the deceased; and (c) the number of dependants. To arrive at the loss of dependency, the Tribunal must consider (i) additions/deductions to be made for arriving at the income; (ii) the deductions to be made towards the personal living expenses of the deceased; and (iii) the multiplier to be applied with reference to the age of the deceased. We do not think it is necessary for us to revisit the law on the point as we are in full agreement with the view in Sarla Verma.

In the end, the conclusion drawn was as under:-

"In what we have discussed above, we sum up our conclusions as follows:

(i) In the applications for compensation made under Section 166 of the 1988 Act in death cases where the age of the deceased is 15 years and above, the Claims Tribunals shall select the multiplier as indicated in Column (4) of the table prepared in Sarla Verma read with para 42 of that judgment.

(ii) In cases where the age of the deceased is upto 15 years, irrespective of the Section 166 or Section 163A under which the claim for compensation has been made, multiplier of 15 and the assessment as indicated in the Second Schedule subject to correction as pointed out in Column (6) of the table in Sarla Verma should be followed.

(iii) As a result of the above, while considering the claim applications made under Section 166 in death cases where the age of the deceased is above 15 years, there is no necessity for the Claims Tribunals to seek guidance or for placing reliance on the Second Schedule in the 1988 Act.

(iv) The Claims Tribunals shall follow the steps and guidelines stated in para 19 of Sarla Verma for determination of compensation in cases of death.

(v) While making addition to income for future prospects, the Tribunals shall follow paragraph 24 of the Judgment in Sarla Verma.

(vi) Insofar as deduction for personal and living expenses is concerned, it is directed that the Tribunals shall ordinarily follow the standards prescribed in paragraphs 30, 31 and 32 of the judgment in Sarla Verma subject to the observations made by us in para 38 above.

(vii) The above propositions mutatis mutandis shall apply to all pending matters where above aspects are under consideration."

A similar view has been taken by Hon'ble Supreme Court in **Amrit Bhanu Shali and others vs. National Insurance Co. Ltd. and others 2012 ACJ 2002.** In **Munna Lal Jain and anr. vs. Vipin Kumar Sharma and others (2015) 6 SCC 347** following the ratio of **Reshma Kumari's case (supra)** it has been held as under:-

> "The remaining question is only on multiplier. The High Court following Santosh Devi (supra), has taken 13 as the multiplier. Whether the multiplier should depend on the age of the dependants or that of the deceased, has been hanging fire for sometime; but that has been given a quietus by another three-Judge Bench decision in Reshma Kumari (supra). It was held that the multiplier is to be used with reference to the age of the deceased. One reason appears to be that there is certainty with regard to the age of the deceased but as far as that of dependants is concerned, there will always be room for dispute as to whether the age of the eldest or youngest or even the average, etc., is to be taken."

In my considered opinion, the law laid down in **Reshma Kumari's case (supra)** being latest than the view taken in **Smt. Shanti Pathak's case (supra),** needs to be followed. In the present case, since the deceased was 19 years old at the time of occurrence, the multiplier of 18 has to be applied.

Perusal of the award shows, that nothing was added to the actual income of the deceased computing future prospects. Following the law laid down in **Rajesh and others vs. Rajbir Singh and others 2013 (9) SCC 54**, an addition of 50% to the actual income of deceased on account of future prospects is allowed.

The amount incurred on medical expenses before the death of

Randhir i.e.Rs.73940/- has already been allowed. It appears that the learned Tribunal has wrongly awarded the amount under the head of loss of consortium when the deceased was unmarried son of the appellants. The said amount shall be adjusted towards the amount allowed under conventional heads.

The amount awarded on account of loss of love and affection to the parents appears to be on the lower side, therefore, the same is enhanced to Rs.50,000/-. The amount awarded under the head of transportation of dead body and funeral expenses is also enhanced to Rs.25,000/-.

Accordingly, the total compensation comes to Rs.9,68,940/- i.e. Rs.5000/- (monthly income) + 50% (future prospects) -1/2 (deduction on account of personal and living expenses of the deceased) x 12 x 18 (multiplier) + Rs.85000/- (conventional heads including the amount already awarded)+Rs.73940/- (medical expenses). The enhanced amount of Rs.3,95,000/- (9,68,940- 5,73,940) shall be paid to the appellants within two months from the date of receipt of the certified copy of the judgment, failing which, it shall carry interest @ 7.5% per annum from the date of the filing of appeal till its realisation.

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

11.4.2016 **(SNEH PRASHAR)**
gsv **JUDGE**