IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-5167-2013 (O&M)
Date of decision: 7.4.2016

Surinder Singh and others ...Appellants

Versus

Sikander Singh and others ...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Paramdeep Singh, Advocate for the appellants

Mr.Pardeep Goyal, Advocate for respondent No.4.

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SNEH PRASHAR, J.

By filing the present appeal, the appellants have sought enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, Fatehgarh Sahib (for short 'the Tribunal') vide award dated 29.8.2012 on account of death of Hardeep Singh @ Happy son of appellants No.1 and 2 and brother of appellants No.3 to 5, in a motor vehicular accident that took place on 31.7.2007.

The submissions made by Mr.Paramdeep Singh, Advocate representing the appellants and Mr.Pardeep Goyal, Advocate for respondent no.4- Insurance Company have been heard and record perused.

Learned counsel for the appellants submitted that the deceased was working as an Assistant in Modern Laboratory, Sirhind and was also dealing in sale purchase of old vehicles and used to earn Rs.24,000/- per month. However, learned Tribunal taking him to be as daily wager assessed his income as Rs.3000/- per month, which is very low. The deceased was bachelor and 23 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. and others 2012 ACJ 2002**, according to which, the multiplier should be chosen as per the age of the deceased. Also, no amount was added to the income computing the future prospects of the deceased and nothing was awarded towards loss of love and affection to the mother. The amount awarded under the head of funeral expenses is also inadequate.

On the other hand, learned counsel for respondent No.4-Insurance Company 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 as per the age of the parents of the deceased since he was a bachelor. He further submitted that no amount should be added towards future prospects when he was not in a permanent job.

Undisputedly, Hardeep Singh @ Happy died due to the injuries suffered by him in a road side accident. He was aged 23 years and was bachelor at the time of his death. The claimants pleaded that the deceased was a Laboratory Assistant and was working in Modern Laboratory, Sirhind. For working as Laboratory Assistant special qualification is required and no substantive evidence was led by the claimants to prove that the deceased was specially qualified. As regards business of sale and purchase of old vehicles, neither any licence held by the deceased to that effect was produced nor any person was examined to prove any such dealing. In the absence of relevant evidence regarding the income of the deceased, learned Tribunal assessed his income as Rs.3000/-per month, which appears to be adequate.

Coming to the selection of suitable multiplier, in **Reshma Kumari and others vs. Madan Mohan and another 2013(2) RCR (Civil) 660**, Full Bench of 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 wes drawn 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.”

Following the law laid down in **Reshma Kumari's case (supra)** which is subsequent to the case law cited by learned counsel for the Insurance Company i.e. **Smt. Shanti Pathak's case (supra),** since the deceased was 23 years old at the time of occurrence, the suitable multiplier would be 18.

Further in view of the law laid down in **Rajesh and others vs. Rajbir Singh and others 2013 (9) SCC 54**, there has to be 50% addition to the actual income of the deceased considering his future prospects.

Learned Tribunal has rightly declined the claim of appellant No.1 father and appellants No.3 to 5 brothers and sister of the deceased in view of the law laid down in **Sarla Verma and others vs. DTC and**

another 2009 ACJ 1298.

The amount awarded under conventional heads appears to be on the lower side, therefore, the amount awarded towards expenses on last rites is enhanced to Rs.25,000/-. As nothing was awarded on account of loss of love and affection to the mother, a sum of Rs.50,000/- is allowed on that count.

Accordingly, the total compensation comes to Rs.5,76,000/- i.e. Rs.3000/- (monthly income) + 50% (future prospects) -1/2 (deduction on account of personal and living expenses of the deceased) x 12 x 18 (multiplier) + Rs.95000/- (under the conventional heads including the amount already awarded). The enhanced amount of Rs.3,46,000/- (5,76,000- 2,30,000) shall be paid to the claimant- mother 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.

7.4.2016 **(SNEH PRASHAR)**
gsv **JUDGE**