IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-5299-2013 (O&M)
Date of decision: 29.2.2016

Shri Ram General Insurance Company Limited ...Appellant

Versus

Somwati and others ...Respondents

FAO-5789-2014 (O&M)
Date of decision: 29.2.2016

Somwati and others
...claimants-Appellants

Versus

Gurdeep Singh and others
...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Arun Sharma, Advocate for
Mr.TK Joshi, Advocate for the Insurance Co.

Mr.Vikram Bali, Advocate for the claimants

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SNEH PRASHAR, J.

Both the aforementioned appeals are directed against the award dated 4.3.2013 passed by learned Motor Accident Claims Tribunal, Panchkula (for short 'the Tribunal') vide which a sum of Rs.10,85,400/- was allowed as compensation to the claimants (appellants in FAO-5789-2014) on account of death of Monu, son of claimants No.1 & 2 and father of claimants No.3 and 4, in a motor vehicular accident.

The submissions made by Mr.Arun Sharma, Advocate for the Insurance Company and Mr.Vikram Bali, Advocate representing the claimants have been heard and record perused.

The Insurance company filed the appeal assailing the award on the ground that learned Tribunal assessing the income of the deceased as Rs.5000/- per month and applying 1/3rd cut on account of personal and living expenses of the deceased worked out the dependency of the claimants as Rs.3350/- per month but while calculating the annual dependency, learned Tribunal multiplied the same with 18 instead of 12 and thereafter again applied the multiplier of 18 instead of 17 and awarded a sum of Rs.7,23,600/- under the head of loss of dependency.

Controverting the argument of learned counsel for the Insurance Company, learned counsel for the claimants submitted that on an application filed by the Insurance Company, learned Tribunal vide order dated 1.2.2014 has since rectified the typographical/ mathematical error in the award dated 4.3.2013. The multiplier of 12 instead of 18 has been applied for calculating the annual dependency based on the monthly income of the deceased assessed by learned Tribunal and accordingly the award amount has been reduced to Rs.7,23,600/- from Rs.10,85,400/-. He further submitted that no amount computing future prospects was added to the actual monthly income of the deceased and nothing was awarded towards loss of love and affection to the claimants by learned Tribunal. The amount of Rs.2000/- allowed on account of last rites expenses is also very meager.

Indeed, learned Tribunal rectified the error of using multiplicand of 12 instead of 18 for calculating the annual dependency based on the monthly income of the deceased, but it still applied the multiplier of 18 to the amount of annual dependency so worked out whereas the age of the deceased being 28 years, the appropriate multiplier was 17 as laid down by Hon'ble Apex Court in **Sarla Verma and others vs. DTC and another 2009 ACJ 1298**. The correction to the said effect is required to be made in the award.

Perusal of the award shows that no amount was added to the actual monthly income of the deceased computing future prospects. Following the ratio in **Rajesh and others vs. Rajbir Singh and others (2013) 9 SCC 54**, since the deceased was 28 years old, there had to be an addition of 50% to the actual income of the deceased on account of loss of future prospects.

The claimants are the parents and two children of the deceased. Wife of the deceased has remarried and she appeared in the witness box and deposed that the compensation of her share be given to both the children.

In view of the proposition laid down in **Vimal Kanwar and others vs. Kishore Dan and others (2013-3) PLR 776** a sum of Rs.One lac is allowed to both the children on account of loss of love, care and guidance. Further a sum of Rs.25,000/- is allowed being expenditure on last rites including the amount already awarded and Rs.50,000/- is allowed on account of loss of love and affection to the mother.

Accordingly, the total compensation comes to Rs.11,97,000/- i.e. Rs.5000/- (monthly income) + 50% (future prospects) – 1/3rd (deduction on account of personal and living expenses of the deceased) x 12 x 17 + Rs.1,77,000/- (under conventional heads including the amount already awarded). The enhanced amount of Rs.4,69,400/- (11,97,000- 7,27,600) shall be paid to the claimants within two months from the date of receipt of the certified copy of this judgment, failing which, it shall carry interest @ 7.5 % per annum from the date of filing of the appeal, till its realisation.

FAO-5299-2013 filed by the Insurance Company as well as FAO-5789-2014 filed by the claimants are partly allowed and the impugned award is modified as indicated above.

29.2.2016 **(SNEH PRASHAR)**
gsv **JUDGE**