IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-5503-2013
Date of decision: 2.5.2016

Inder Mohan Dutta and another
...Appellants

Versus

Narinder Kumar and others
...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.JS Cooner, Advocate for the appellants

None for respondents No.1 and 2

Mr.MB Jain, Advocate for respondent No.3

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SNEH PRASHAR, J.

Claimant-appellants, who are the husband and son of the deceased, have filed the present appeal seeking increase in compensation awarded by learned Motor Accidents Claims Tribunal, Shaheed Bhagat Singh Nagar (for short 'the Tribunal') vide award dated 9.1.2013 passed in MAC case No.10 of 2012.

The submissions made by Mr.JS Cooner, Advocate representing the appellants and Mr.MB Jain, Advocate for respondent No.3 have been heard and record perused.

It is submitted on behalf of the appellants that the deceased was working as Vice Principal at Aadarsh Bal Vidyalaya Senior Secondary School, Nawanshahr and was getting salary of Rs.26,800/- per month, however, learned Tribunal while calculating the compensation, had taken the income of the deceased as only Rs.5000/-

per month. Also cut of 50% to the income had been applied on account of personal and living expenses of the deceased, which is in contravention to the law laid down in **Sarla Verma and others vs. DTC and another 2009 ACJ 1298**. It is further contended that the claimants were inadequately compensated under the conventional heads.

Undisputedly, Rekha Dutta died due to the injuries sustained by her in a road side accident that occurred due to rash and negligent driving of respondent No.1. She was working as Vice Principal at Aadarsh Bal Vidyalaya Senior Secondary School, Nawanshahr and was 59 years aged at the time of her death. She was left with service of one year to her credit at the time of her death. As per salary certificate Ex.P3, she was getting salary of Rs.26,800/- per month. Learned Tribunal erred in taking deduction to the extent of 50% to the actual income towards personal and living expenses of the deceased, because there were two claimants and as per the law laid down in Sarla Verma's case (supra), the deduction of 1/3rd would be applicable. Further there being no evidence on record to show that she was entitled to pension or not because it was a private institution, learned Tribunal had rightly taken her income as Rs.5000/- per month, which she could earn after retirement.

Perusal of the award shows that the sum of Rs.5200/- allowed for loss of consortium to the husband is very less and nothing was awarded on account of funeral expenses. Therefore, a sum of Rs.1,00,000 (one lac) on account of loss of consortium including the amount already awarded and Rs.25,000/- on account of expenditure on last rites is allowed.

Accordingly, the total compensation comes to Rs.6,59,400 (Rs.26,800 -1/3rd deduction x 12) + (Rs.5000 -1/3rd x 12 x 8) + Rs.1,25,000 (under conventional heads including already awarded). The enhanced amount of Rs.2,59,400/- (6,59,400-4,00,000) shall be paid to the appellants 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 the filing of the appeal till its realization.

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

2.5.2016 **(SNEH PRASHAR)**
gsv **JUDGE**