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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No.5541 of 2014 (O&M)
Date of decision : 26.07.2016

POOJA AND OTHERS ...Appellant

versus

PARVEEN AND ANOTHER .... Respondents

CORAM : HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. N.S. Panwar, Advocate for the appellants.
None for the respondents.

RAJ MOHAN SINGH, J. (ORAL)

CM-15403-CII-2014

Notice was issued in the application for condonation of delay of 48 days. There is no representation on behalf of the respondents.

For the reasons mentioned in the application, the delay of 48 days in filing the appeal is hereby condoned.

FAO-5541-2014

Claimants-appellants have filed this appeal for enhancement of compensation alleging that the Tribunal has awarded palpably low compensation to them.

Brief facts as gathered from the record are that the accident took place on 29.06.2012 when Ravinder Singh was standing by the side of the road under the bridge near the turn and his uncle Ashok was urinating near the wall of the bridge. In the meantime, offending vehicle being driven by respondent No.1 came in rash and negligent manner towards Panipat side and struck against Ravinder Singh. As a result of which Ravinder Singh died on the spot.

The claim set up by the claimants was that the deceased was serving as Sweeper/cleaner under contractor on Airport Delhi and his monthly salary was Rs.12,000/- per month. The claimants claimed compensation under different Heads. The Tribunal while dealing with issue No.1 ultimately held that the accident took place on account of rash and negligent driving of respondent No.1. Driver was facing prosecution in terms of FIR No.253 dated 30.06.2012 under Sections 279, 304-A IPC. The charges were framed against the accused on 11.02.2012. Relying upon ratio laid down in '*Radhey Shayam versus Girdhari Lal'*, *1993(2) P.L.R., 109* the Tribunal concluded that it would be safe and prudent to conclude that the accident took place on account of rash and negligent driving of offending truck by respondent No.1.

As regards, salary of the deceased, who was 25 years of age at the time of his death, the Tribunal found that as per salary certificate, deceased-Ravinder Singh was shown employed with the company as Cleaner/Sweeper since 26.11.2008 against monthly salary of Rs.9,500/-. The salary certificate was produced on record as Exhibit P-6 but no other record pertaining to the service of the deceased was produced by the company. No evidence was led with regard to deduction of TDS by the company, nor any record was produced in respect of attendance. The Tribunal by considering the evidence, ultimately assessed income of the deceased to be Rs.4,500/- per month. Since, the deceased was 25 years of age at the time of accident and keeping in view the composition of the family deduction to the extent of 1/4th was applied and monthly dependancy of the claimants was assessed to be Rs.3,375/- per month. The annual dependancy of the claimants was assessed to be Rs.40,500/-. By applying the ratio and table given in *'Sarla Verma versus Delhi Transport Corporation and Another, 2009(3) RCR (Civil) 77*, multiplier of 17 was applied. Under the aforesaid head, amount of compensation was assessed as Rs.6,88,500/- to which an amount of Rs.1,00,000/- was added towards loss of consortium and further amount of Rs.25,000/- was awarded towards funeral expenses and Rs.5,000/- towards loss of estate. In this manner, total amount of compensation was assessed to be Rs.8,18,500/-. This amount was to be paid along with interest @ 7.5% per annum from the date of filing the claim petition till final realization of the amount. The break-up of the amount of compensation was worked out to be in the manner that out of the total amount, an amount of Rs.1,00,000/- was ordered to be given to petitioner No.4 being mother of the deceased and the remaining amount was to be apportioned in equal shares amongst the remaining claimants.

Learned counsel for the appellant vehemently submitted that in view of ratio and table as discussed in *Sarla Verma's case* (supra), a multiplier of 18 has to be applied for the deceased who was in the age group of 21 to 25 years. Therefore, multiplier of 18 should have been applied. Nothing has been awarded towards loss of future prospects.

I have considered the submissions made by learned counsel for the appellants.

Keeping in view the age of the deceased and the ratio laid down in *'Rajesh and others versus Rajbir and others', 2013(9) SCC 54*, 50% of the monthly income has to be computed towards loss of future prospects in case the deceased was a salaried person. Since, the income of the deceased has been assessed to be Rs.4,500/-. 50% of the income if added to the monthly income of the deceased, it would come out to be Rs.6,750/-. Seeing the composition of the family, 1/4th has to be deducted towards personal expenses of the deceased. The monthly dependancy of the claimant comes out to be Rs.5062.50. In this way, annual dependancy of the claimants based on such monthly income would be Rs.60,750/-. The multiplier of 18 has to be applied in view of *'Sarla Verma's case (supra)* case, thereby making the amount of compensation to Rs.10,93,500/-. Since the amount of Rs.1,00,000/- towards loss of consortium, Rs.25,000/- towards funeral expenses and Rs.5,000/- towards loss of estate have already been granted, this Court finds that the aforesaid amounts towards conventional Heads is just and proper except the amount towards loss of love and affection for which an amount of Rs.1,00,000/- has to be granted in view of ratio laid down in *'Rajesh and others versus Rajbir and others' case (supra)*. If the amount towards conventional head i.e. loss of consortium Rs.1,00,000/-, funeral expenses Rs.25,000/- and loss of estate Rs.5,000/- already granted by the Tribunal and Rs.1,00,000/- awarded towards love and affection are added to the aforesaid compensation, the total amount of compensation would come out to be Rs.13,23,500/-. In this manner an amount of Rs.5,05,000/- stands enhanced in addition to the amount already awarded by the Tribunal. However, this enhanced amount shall carry interest @ 7.5% per annum from the date of filing of claim petition till final realization of the amount. Remaining condition as fixed by the learned trial Court would remain the same.

With the aforesaid modification, the present appeal is allowed.

July 26, 2016 **(Raj Mohan Singh)**
Rajneesh **Judge**

Whether reasoned/speaking YES / NO

Whether reportable YES / NO