IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5726 of 2014
Date of Decision-30.08.2016

Paramjit Kaur ... Appellant

Versus

Ram Singh and others ... Respondents

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Ashwani Arora, Advocate for the appellant.

Mr. S.S. Sidhu, Advocate for respondent No.3.

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RAJ MOHAN SINGH, J.

[1]. Claimant-appellant has filed this appeal against Award dated 10.03.2014 passed by Motor Accident Claims Tribunal, Fast Tract Court, Ropar (for short ' the Tribunal') alleging that the amount of compensation awarded by the Tribunal was pulpably on the lower side.

[2]. Claimant-appellant filed petition under Section 166 of the Motor Vehicles Act (for short 'the Act') seeking compensation to the tune of Rs.50,00,000/- on account of death of her son Rajinder Singh in a vehicular accident on 16.06.2012.

[3]. On 16.06.2012, at about 11.30 PM, Rajinder Singh was coming from Jind to Chandigarh while driving his car at a very moderate speed on the correct left hand side of the road. Kiran Sethi, Balbir Singh, Balvinder Singh and Surinder Singh were co-occupants of the car. The car was being followed by Inderjit Singh

in a separate car. When the car had gone ahead of railway bridge crossing, the offending truck came from the opposite side in a rash and negligent manner and struck against the car. Ram Singh driver of the truck fled away from the spot after leaving the truck. Rajinder Singh son of the claimant-appellant was removed to Civil Hospital, Ambala Cantt in an ambulance where he died. Smt. Kiran Sethi, Balbir Singh and Balvinder Singh had also died. Accident took place due to rash and negligence driving of respondent No.1. FIR No.239 dated 17.06.2012 was registered under Sections 279, 337 and 304-A IPC against the driver of the offending vehicle.

[4]. Claim petition was contested by the respondents.

[5]. Both the parties led evidence before the Tribunal.

[6]. The Tribunal found that the accident took place due to rash and negligent driving of driver of the offending truck. The Tribunal awarded a sum of Rs.5,50,000/- in favour of the claimant by treating the age of the deceased to be 22 years. Monthly income was assessed to be Rs.5,000/- to which a deduction to the extent of half was applied. Keeping in view the age of the deceased, a multiplier of 18 was applied. An amount of Rs.10,000/- was granted towards funeral expenses. In this way, total amount of Rs.5,50,000/- was assessed. The driving licence of respondent No.1 was held to be valid at the time of accident and valid registration certificate and route permits were found with

respondent No.2. The claim petition was held to be maintainable. The claim petition was allowed and compensation was awarded with interest @ 6% per annum from the date of filing claim petition. In case the payment was not made within three months from the date of award then claimant was held entitled to interest @ 8 % from the date of filing of claim petition till final realization of the amount.

[7]. I have heard learned counsel for the parties.

[8]. Learned counsel for the appellant argued that Tribunal has not considered the fact that deceased was a driver by profession and he was owner of the car in which accident took place. Ramnik Sharma PW 3 on the basis of summoned record of loan taken by deceased Rajinder Singh specifically deposed that the deceased took a loan of Rs.4,19,000/- for purchase of new car from the company. The loan agreement was executed between the deceased and company on 08.06.2011 (Ex. P9) and loan statement was also exhibited as Ex.P10. Loan was being paid by the deceased from time to time. The monthly installment of the loan was Rs.10,475/-. After the death of Rajinder Singh, the remaining amount was paid by the Insurance Company of the vehicle. The loan account stood closed on 30.09.2012 on receipt of complete dues. The witness however admitted that the loan was not sanctioned in his presence and on 08.06.2011, he was in the Branch of Mukatsar.

[9]. The factum of loan stood admitted on the basis of documentary evidence. It was admitted that the loan account stood closed on receipt of final installment. The loan installment was Rs.10,475/- per month. Learned counsel for the appellant submitted that monthly income to the tune of Rs.5000/- as assessed by the Tribunal was totally unrealistic in view of earning capacity of the deceased. Secondly, learned counsel submitted that deduction to the tune of 50% towards personal expenses was justified keeping in view the single claimant and multiplier of 18 was also lawful, in view of ratio laid down in ***Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3) RCR (Civil),*** but nothing was granted towards loss of love and affection in favour of the claimant and the Tribunal has erred in not granting any amount towards future prospects of the deceased and adequate amount towards funeral expenses.

[10]. On the other hand, learned counsel for respondent No.3 contended that vehicle was not a taxi and was not employed by Reserve Bank of India on regular basis. Even though the vehicle was destroyed still the claimant remained owner of the same. Learned counsel opposed the plea of escalation in monthly income and future prospects of the deceased. However, adequate amount towards conventional heads was not opposed as per ratio laid down in ***Rajesh Vs. Rajbir Singh, 2013 ACJ 1403.***

[11]. Having considered the rival submissions, this Court found that admittedly the deceased was regularly paying the installments of car loan to the tune of Rs.10,475/- per month. He was earning livelihood by plying the car and the car was being engaged by Reserve Bank of India on specific days. Even though there is no proof of regular income of the deceased from plying of the car, but still keeping in view unrebutted evidence of PW 3 Ramnik Sharma, it can be safely presumed that the deceased was earning not less than Rs.12,000/- per month. Therefore, monthly income of deceased is taken as Rs.12,000/-. The car was completely destroyed and was of no value to the claimant. Since the deceased was 22 years of age at the time of accident and was self employed, a deduction to the tune of 50% towards personal and living expenses of the deceased was just and proper. There must be an addition of 50% to the actual income of the deceased for the purposes of computing future prospects in the light of observations made by the Hon'ble Apex Court in ***Rajesh Vs. Rajbir Singh's case (supra)*** and ***Munnal Lal Jain and another Vs. Vipin Kumar Sharma and others, 2015(3) SCC (Civil) 315***. After adding 50% of the monthly income towards future prospects and deducting 50% of the monthly income towards self expenses, the monthly income of the deceased comes out to be Rs.9000/- per month and Rs.1,08,000/- (9,000x12) per annum. Since the deceased was 22 years of age, multiplier of 18 was validly applied. Therefore, by applying the multiplier of 18, the amount of

compensation would come out to be Rs.19,44,000/-(1,08,000x18). An amount of Rs.1,00,000/- towards loss of love and affection and an amount of Rs.25,000/- towards funeral expenses were also required to be added towards conventional heads. In this way, total amount of Rs.20,69,000/- came to be calculated.

[12]. Learned counsel for respondent No.3 has argued that issue of future prospects has already been referred to Larger Bench by the Apex Court. Apparently, Hon'ble Apex Court has ruled this preposition in ***Rajesh and Rajbir Singh's case (supra)***, which was duly affirmed in ***Munna Lal Jain's case (supra)***. These judgments of Apex Court had not been stayed by the Larger Bench, therefore, as on date the plea of the respondent against additional amount towards future prospects cannot be entertained. The total amount to the tune of Rs.20,69,000/- has been assessed and the proportionate deduction to the extent of amount already assessed has to be made. In view of above, the amount of compensation is hereby detailed as under:-

Sr. No.	Heads	Amount awarded by the Tribunal	Amount assessed in appeal	Difference
1.	Monthly income	2500/- (after deduction of 50% towards personal expenses out of 5000/-)	9,000/- (after addition of 50% towards future prospects and deduction of 50%	

			towards personal expenses)	
2.	Annual dependency	2500 x 12 = 30,000/-	9,000 x 12 =1,08,000/-	
3.	Compensation after applying multiplier of 18	30,000 x 18 = 5,40,000/-	1,08,000 x 18 =19,44,000/-	1404000/-
4.	Funeral expenses	10,000/-	25,000/-	15,000/-
5.	Loss of love and affection	Nil	1,00,000/-	1,00,000/-
6.	Total compensation	5,50,000/-	20,69,000	15,19,000/-

[13]. The enhanced amount i.e. Rs.15,19,000/- would carry interest @ 7.5 % from the date of filing of the claim petition till final realization of the amount.

[14]. In view of aforesaid modification, the present appeal stands disposed of.

(RAJ MOHAN SINGH)
JUDGE

30.08.2016
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