IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 5823 of 2014 and
XOBJC 24-CII of 2015
Date of decision: 08.11.2016

Shri Ram General Insurance Company Limited ....Appellant

Versus

Ranjit Singh and others ....Respondents

Coram: **Hon'ble Mrs. Justice Rekha Mittal**

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Present: Mr.Sanjeev Kumar Goel, Advocate
for the appellant-insurance Company

Mr. S K Yadav, Advocate
for the cross objectors/claimants

Mr. Davinder Arya, Advocate
for respondents No. 6 and 7

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Rekha Mittal, J.

Shri Ram General Insurance Company Limited (in short, the Company) has filed the instant appeal to challenge grant of compensation in favour of the claimants/objectors in regard to death of Surajpal in a motor vehicular accident that took place on 12.11.2011.

The Tribunal assessed income of the deceased at Rs.4,888.00 per month, added 50% for future prospects, deducted 50% for personal and living expenses and applied multiplier of 18 to compute loss of dependency at Rs.7,91,856.00. In addition, Rs.25,000.00 for funeral expenses and Rs.10,000.00 for transportation has been awarded. Another sum of Rs.1,00,000.00 each in favour of father and mother of the deceased for loss of love and affection of their son has been awarded making total compensation to the tune of Rs.10,26,856.00.

Counsel for the appellant has challenged the award qua quantum of compensation. It is argued that the Tribunal has wrongly assessed income of the deceased at Rs.4,888.00 per month i.e. equivalent to minimum monthly wage fixed available at the relevant time and further allowed multiplier of 18 in place of 14 by considering age of the parents. In support of his contention, he has relied upon judgment of Hon'ble the Supreme Court ***New India Assurance Company Limited v. Shanti Pathak (smt.) and others (2007) 10 Supreme Court Cases 1.*** It is further argued that since the deceased was not in permanent or regular employment, he would not be entitled to any addition towards future prospects. He has referred to judgment of Hon'ble the Supreme Court ***Reshma Kumari and others v. Madan Mohan and another 2013 (2) RCR Civil 660*** wherein it is held that in cases, where the deceased was self employed or was on a fixed salary without provision for annual increments, the actual income at the time of death without any addition to income for future prospects will be appropriate. A departure from the above principle can only be justified in extraordinary circumstances and very exceptional cases. It is further argued that compensation of Rs.1,00,000.00 each awarded for loss of love and affection to the parents is on the higher side and it should be reduced to Rs.50,000.00 each i.e. Rs.1,00,000.00

Counsel for the claimants/objectors, while refuting contentions of the insurance company and to substantiate their plea for enhancement of compensation has urged that the deceased was earning Rs.10,000.00 per month as he was running a grocery shop and was doing a part time agricultural work, therefore, his income should have been taken as

Rs.10,000.00. Further argued that since the deceased was 21 years, multiplier applied by the Tribunal is fully justified in view of the principle laid down in *Smt. Sarla Verma,* case (supra).

I have heard counsel for the appellant and pursed the paper book particularly the award impugned.

As there is no satisfactory much less documentary evidence with regard to earning of the deceased, the Tribunal has rightly assessed monthly income of the deceased at Rs.4,888.00 i.e. equivalent to minimum monthly wage available in the State of Haryana at the relevant time.

Counsel for the appellant-insurance company mainly lays challenge to multiplier adopted by the Tribunal in the light of the fact that the claimants are admittedly parents of deceased Surajpal. The Tribunal has adopted a multiplier of 18 keeping in view age of the deceased.

The crucial question for adjudication is '*whether the Tribunal was required to adopt multiplier in view of age of the deceased or as per age of the parents as the deceased was their unmarried son'*. Hon'ble the Supreme Court of India in *New India Assurance Company's case (supra)* allowed multiplier of 5 considering the fact that mother of the deceased was about 65 years at the time of accident and age of the father was more than 65 years. However, Hon'ble the Supreme Court of India in an effort to bring fairness and firmness in the decision making process and the decisions put its best efforts to laid down certain principles with regard to multiplier to be adopted, deduction to be made in regard to personal and living expenses and benefit of future prospect to be allowed for computation of compensation etc. has held in the case of ***Sarla Verma (Smt) and others v. Delhi Transport Corporation and another, (2009) 6 Supreme Court Cases***

121 that when the deceased is between the age bracket of 15-25, multiplier of 18 should be applied. In this case, the Apex Court while dealing with the question of deductions for personal and living expenses adverted to the question of deduction towards personal expenses in case the deceased happens to be bachelor and held that ½ of the income is to be deducted towards personal and living expenses of the deceased if the deceased was a bachelor. In this judgment, Hon'ble Court has also referred to earlier judgment of the Apex Court ***U.P. State Road Transport Corporation v. Trilok Chandra, 1996 (4) SC 362,*** wherein Hon'ble the Supreme Court has held that age of the parents is also to be taken into consideration for adopting multiplier in case the deceased happens to be a bachelor. The multiplier held to be admissible in view of judgment in *Sarla Verma's* case (supra) was affirmed in a recent decision of Hon'ble the Supreme Court in ***Reshma Kumari and others v. Madan Mohan and another, 2013 (2) R.C.R. (Civil) 660.*** In Reshma Kumari's case (supra), the multiplier adopted in *New India Assurance Company Limited's* case (supra), in view of age of parents of the deceased was noticed but the Court affirmed the multiplier laid down in *Sarla Verma's* case (supra) as a matter of principle.

Keeping in view authoritative enunciation of law laid down in *Sarla Verma's* case (supra) and *Reshma Kumari's* case (supra), I find it difficult to accept contention of the appellant that the multiplier adopted by the Tribunal in the light of age of the deceased is wrong or the same is liable to be reduced keeping in view age of parents of the deceased.

The Tribunal has awarded an amount of Rs.2,00,000.00 to the parents for loss of love and affection of their son which is on the higher side, therefore, it deserves to be reduced to Rs.1,00,000.00. Ordered accordingly.

The Tribunal has rightly granted benefit of increase to the extent of 50% in view of judgment of Hon'ble the Supreme Court ***Rajesh and others v. Rajbir Singh and others (2013) 9 SCC 54.*** The mere fact that the matter with regard to future prospects is pending before a larger Bench of Hon'ble the Apex Court is not sufficient to deny the said benefit till the judgment in Rajesh's case (supra) is varied or set aside**.**

No other point has been raised.

In view of what has been discussed hereinabove, the appeal is partly allowed in the aforesaid terms. Compensation awarded by the Tribunal is reduced to the extent of Rs.1,00,000.00. As a natural corollary, the cross objection filed by the claimants is dismissed.

(Rekha Mittal)
Judge

08.11.2016
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No