In the High Court of Punjab and Haryana at Chandigarh

FAO No.6251 of 2014
Date of Decision:July 25, 2016

Smt. Gurmail Kaur

---Appellant

vs.

Balwinder Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Nitin Mittal, Advocate
for the appellant
Mr. Ajay Singh, Advocate
for Mr. Bhag Singh, Advocate
for respondent Nos. 1 and 2
Mr. S.S.Sidhu, Advocate
for respondent No. 3

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1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

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<u>Rekha Mittal, J.</u>

Gurmail Kaur, unfortunate mother of deceased Sukhwinder Singh aged about 23 years, is in appeal seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Ambala (in short "the Tribunal").

The learned Tribunal assessed income of the deceased at Rs. 10,000/- per month, adopted multiplier of 13 by taking into consideration age of the claimant between the age bracket of 46-50 years, allowed deduction to the extent of 50% and thus, assessed loss of dependency to the tune of Rs. 7,80,000/-. Another amount of Rs. 10,000/- has been awarded towards funeral expenses making total compensation to the tune of Rs. 7,90,000/-.

Counsel for the appellant has submitted that income of the deceased assessed at Rs. 10,000/- is on lower side. To substantiate his contention, he has relied upon the fact that the deceased had obtained a tractor loan and was regularly making payment of half yearly instalments of Rs. 64,000/- and there is nothing on record suggestive of the fact that instalments were being paid out of joint family funds. He has further submitted that the Tribunal has not allowed benefit of increase in income for future prospects, wrongly adopted multiplier of 13 in place of 18 and compensation awarded under conventional heads also requires re-look and enhancement.

Counsel for respondent No. 3 has supported the award passed by the learned Tribunal with the submissions that the Tribunal has rightly allowed multiplier of 13 by taking into consideration age of the claimant.

I have heard counsel for the parties, perused the records with their able assistance.

There is no documentary evidence on record with regard to income of the deceased. Counsel for the appellant has conceded that the deceased was cultivating the land left behind by him. The mere fact that the deceased had obtained a loan for purchase of tractor and was paying half yearly instalments of Rs. 64,000/-, in my considered opinion, is not sufficient to enhance his income. As the deceased was cultivating the land, his income is to be assessed on the basis of value of his services towards management of land. The learned Tribunal has rightly assessed income of the deceased at Rs. 10,000/- per month. The appellant is entitled to benefit of increase in income for future prospects to the extent of 50%.

The learned Tribunal has allowed multiplier of 13 by taking into consideration age of the claimant instead of age of the deceased. In this context, reference can be made to judgment **Sarla Verma and others vs. Delhi Transport Corporation and another 2009 ACJ 1298**. After adopting multiplier of 18 and extending benefit of increase in income to the extent of 50%, loss of dependency comes to Rs.5000 x 12 x 18 = Rs. 10,08,000/- + Rs.5,04,000/- (50% increase for future prospects) = Rs. 15,12,000/-.

The appellant is awarded an amount of Rs. 50,000/- towards of loss of love and affection and an amount of Rs. 25000/- towards funeral expenses. The total compensation payable comes to Rs.15,87,000/-. The enhanced compensation of Rs. 7,97,000/- is payable to the appellant with interest at the rate of 7.5% per annum from the date of filing of the petition till its realization. The enhanced compensation shall be deposited in the shape of FDR in a nationalized bank for a period of three years subject to the terms and conditions imposed by the Tribunal.

Appeal stands disposed of.

(Rekha Mittal)
Judge

July 25, 2016
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