IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.732 of 2015
Date of Decision-30.08.2016

Devi ... Appellant

Versus

Bhura Ram and others ... Respondents

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

Present: Mr. Vishal Nehra, Advocate for the appellant.

Mr. Nittin Mittal, Advocate for
Mr. Subhash Goyal, Advocate for respondent No.3.

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RAJ MOHAN SINGH, J.

[1]. Claimant-appellant has filed this appeal seeking enhancement of compensation on account of death of Vijay Rana @ Sonu in a vehicular accident on 05.02.2013.

[2]. Claimant-appellant claimed compensation to the tune of Rs.50,00,000/-. The accident took place on 05.02.2013.

[3]. On 04.02.2013, the deceased Vijay Rana @ Sonu, Nirgun along with Kapoor Singh-respondent No.4 and four labourers were coming to Karnal after loading burali from Sapla factory in a canter bearing No.HR-46B-6638. At about 1.30 AM when they reached over flyover, Sector-6 on 05.02.2013, the canter got punctured due to which they parked the same on the side of the road. They also put lights on the indicators. Kapoor Singh, Vijay Rana @ Sonu and Nirgun started changing the wheel

of the canter. In the meanwhile, offending truck came from behind in a rash and negligent manner being driven by its driver and hit the truck against the canter. Vijay Rana received serious injuries on his person and succumbed to his injuries on the spot. FIR No.119 dated 05.02.2013 under Sections 279, 337 and 304-A IPC was registered at Police Station City, Panipat against the driver of the offending vehicle.

[4]. Tribunal after collecting material evidence held that the accident took place on account of rash and negligent driving of driver of the offending vehicle. The income of the deceased was assessed to be Rs.12,000/- per annum. The deceased was 24 years of age at the time of accident. The Tribunal on the basis of age of the claimant assessed the dependency of the claimant as Rs.9000/- per month after adding 50% of the income towards future prospects and deducting 50% of the income towards personal expenses (18000-9000=9000). In this way the annual dependency was calculated as Rs.9000 x 12=1,08,000/-. The Tribunal had applied multiplier of 11 keeping in view the age of the claimant and the amount was assessed Rs.11,88,000/-. The Tribunal also granted Rs.25,000/- towards last rites, Rs.10,000/- towards transportation charges and Rs.50,000/- towards loss of love and affection. In this way, total amount of Rs.12,73,000/- was assessed by the Tribunal which was ordered to be paid along with interest @ 7.5% per annum.

[5]. Learned counsel for the appellant submitted that a multiplier of 18 as per ratio laid down in ***Smt. Sarla Verma and others Vs. Delhi Corporation and another, 2009(3) RCR (Civil) 77***, keeping in view the age of the deceased at the time of accident has to be applied. An amount of Rs.1,00,000/- towards loss of love and affection is also required to be given to the claimant along with suitable amount towards transportation charges. Since there is no appeal on behalf of Insurance Company, therefore, the assessment of income and other assessment under different heads as assessed by the Tribunal appropriately cannot be made subject matter of re-assessment by this Court. Since the multiplier of 11 was applied by the Tribunal on the basis of age of the claimant-mother which according to this Court needs to be substituted with the multiplier keeping in view the age of deceased in view of ratio laid down in ***Amrit Bhanu Shali and others Vs. National Insurance Company Ltd. and others, 2012(4) RCR (Civil) 343***. In view of ratio laid down in ***Smt. Sarla Verma's case (supra)***, multiplier of 18 has to be applied. The monthly income of the deceased was Rs.12,000/- to which future prospects to the tune of 50% were added. Total income of Rs.18,000/- per month came to be calculated. After deducting 50% towards self expenses of the deceased, the remaining amount came to be calculated as Rs.9000/- per month and Rs.1,08,000/- per annum. A multiplier of 18 was required to be applied in view of age of the deceased and in this way, assessment towards dependency came to be

calculated as Rs.19,44,000/-. An amount of Rs.1,00,000/- towards loss of love and affection and Rs.25,000/- towards funeral expenses were required to be added to the aforesaid amount. The Tribunal has assessed an amount of Rs.10,000/- towards transportation charges. Keeping in view the distance between the place of occurrence and the place of residence of the deceased, suitable increase has to be made under this head. In considered opinion of this Court, Rs.20,000/- towards transportation charges would suffice to meet the requirement under this head. In this way, compensation would come out to be Rs.20,89,000/- (19,44,000+1,00,000+25,000+20,000). In view of above, the amount of compensation is worked out as under:-

Sr. No.	Heads	Amount awarded by the Tribunal	Amount assessed in appeal	Difference
1	Monthly income	9000/-(after addition of 50% towards future prospects and deduction of 50% towards personal expenses)	9000/-(after addition of 50% towards future prospects and deduction of 50% towards personal expenses)	
2	Annual dependency	9000 x 12= 1,08,000/-	9000 x 12 = 1,08,000/-	
3	Compensation after multiplier	1,08,000 x 11= 11,88,000/-	1,08,000 x 18= 19,44,000/-	7,56,000/-
4	Last rites	25,000/-	25,000/-	0
5	Transportation charges	10,000/-	20,000/-	10,000/-

6	Love and affection	50,000/-	1,00,000/-	50,000/-
7	Total compensation	12,73,000/-	20,89,000/-	8,16,000/-

[6]. The enhanced amount i.e. Rs.8,16,000/- would carry interest @ 7.5 % per annum from the date of filing of the claim petition till realization of the amount.

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

(RAJ MOHAN SINGH)
JUDGE

30.08.2016
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