IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 6433 of 2016
Date of Decision : 20.10.2016

Oriental Insurance Company Ltd. ....Appellant

Versus

Gurmail Kaur and others ....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ram Avtar, Advocate
for the appellant-Insurance Company.

Surinder Gupta, J.

This is appeal by Oriental Insurance Co. Ltd. against award dated 01.04.2016, passed by Motor Accident Claims Tribunal, Ludhiana (later referred to as 'the Tribunal') whereby compensation of ₹16,02,000/- was allowed to claimants for death of Jagjit Singh (later referred to as 'the deceased') in a motor vehicle accident with vehicle bearing registration No. CH-03-Z-8830 (later referred to as the offending vehicle').

2. Case of claimants, in brief, is that on 08.10.2014, the deceased had gone to Amritsar to deliver couriers in his vehicle bearing registration no. PB-10-DZ-0192, where Tarlok Singh son of Amrik Singh and Ankush Sharma son of Sushil Kumar met the deceased. The deceased alongwith Tarlok Singh and Ankush Sharma started from Amritsar towards Ludhiana. The deceased was on his vehicle whereas Tarlok Singh and Ankush Sharma were on their motorcycle. The deceased was ahead of Tarlok Singh and Ankush Sharma. At about 06.30 p.m., the deceased reached near Gadana Army School, when the offending vehicle being driven by respondent no. 1 in a rash and negligent manner at a very high speed came from opposite side and struck his vehicle against the vehicle of the deceased as a result of which the deceased sustained multiple grievous injuries on various parts of his body and was taken to SGL Hospital by Tarlok Singh and Ankush Sharma, where the doctor declared him

as dead. The deceased, aged 30 years, was having TATA ACE vehicle, which was attached with courier company M/s Shield Express Solutions to deliver couriers and was getting ₹75,000/- per month including petrol expenses. A sum of ₹25,000/- was spent on transportation and last rites of the deceased.

3. Tribunal computed amount of compensation as follows:-

Sr.No.	***Heads***	***Calculation***
(i)	Name of the deceased	Jagjit Singh
(ii)	Age of the deceased	30 years
(iii)	Income of the deceased	₹6000
(iv)	50% of (iii) added towards future prospects	(₹6000+₹3000)= ₹9000
(v)	1/4th of (iv) deducted towards personal expenses of the deceased	(₹9000-₹2250)= ₹6750
(vi)	Amount of dependency after applying multiplier of 17	(₹6750x12x17)= ₹1377000
(vii)	Loss of love and affection to claimants no. 1 to 4 @ ₹50,000/- each	₹200000
(viii)	Funeral expenses	₹25000
	Total	**₹1602000**

4. Learned counsel for the appellant has argued that the Tribunal assessed income of the deceased as ₹6000/- per month without there being any documentary evidence. While assessing income of the deceased, he was taken as unskilled worker. The Tribunal allowed 50% addition in income of the deceased towards future prospects despite the fact that question for grant of addition in income of the deceased towards future prospects has been referred to a larger Bench of Apex Court in case of ***National Insurance Company Limited*** ***vs.*** ***Pushpa and others*, *2015 (9) SCC 166*** and till the judgment by larger Bench. Amount of compensation allowed to claimants no. 1 to 4 towards loss of love and affection @ ₹50,000/- each is also on higher side.

5. On giving a careful thought to submissions of learned counsel for the appellant, I find no weight therein for the reasons as follows:-

(i) Tribunal assessed income of the deceased as ₹6000/-, which is not on higher side. In the year 2014, even a daily wager could earn ₹300/- per day. Income of the deceased as assessed by the Tribunal is quite moderate and cannot be termed as excessive.

(ii) Tribunal allowed compensation towards loss of love and affection to wife @ ₹50,000/-, to minor children @ ₹50,000/- each and to mother of the deceased as ₹50,000/-, which cannot be termed on higher side. Even otherwise, Apex Court in case of ***Rajesh and others vs. Rajbir Singh and others*, 2013 (9) SCC 54** allowed ₹1 lac each towards loss of consortium for the wife and towards loss of love and affection to minor children of the deceased. In case of ***Vimal Kanwar and others* vs. *Kishore Dan and others*, 2013 (7) SCC 476**, Apex Court also allowed ₹1 lac for the loss of estate, love and affection for parents of the deceased.

6. While making reference to larger Bench on the quantum of grant of addition in income towards future prospects in the case of ***National Insurance Company Limited* vs. *Pushpa and others*, 2015 (9) SCC 166**, while differing with the view taken in case of ***Sarla Verma and others* vs. *Delhi Transport Corporation and anr.*, (2009) 6 SCC 121,** Apex Court observed as follows:-

"*18. Therefore, we do not think that while making the observations in the last three lines of para 24 of* ***Sarla***

__Verma__ judgment, the Court had intended to lay down an absolute rule that there will be no addition in the income of a person who is self-employed or who is paid fixed wages. Rather, it would be reasonable to say that a person who is self-employed or is engaged on fixed wages will also get 30% increase in his total income over a period of time and if he/she becomes the victim of an accident then the same formula deserves to be applied for calculating the amount of compensation."

7. In case of ***Rajesh (supra),*** a three Judges Bench of Hon'ble Apex Court has observed in para 11 and 12 as follows:-

"*11. Since, the Court in **Santosh Devi's case**[1] (supra) actually intended to follow the principle in the case of salaried persons as laid in **Sarla Verma's case** (supra) and to make it applicable also to the self-employed and persons on fixed wages, it is clarified that the increase in the case of those groups is not 30% always; it will also have a reference to the age. In other words, in the case of self-employed or persons with fixed wages, in case, the deceased victim was below 40 years, there must be an addition of 50% to the actual income of the deceased while computing future prospects. Needless to say that the actual income should be income after paying the tax, if any. Addition should be 30% in case the deceased was in the age group of 40 to 50 years.*

[1] *Santosh Devi v. National Insurance Co. Limited, (2012) 6 SCC 421*

*12. In **Sarla Verma's case** (supra), it has been stated that in the case of those above 50 years, there shall be no addition. Having regard to the fact that in the case of those self-employed or on fixed wages, where there is normally no age of superannuation, we are of the view that it will only be just and equitable to provide an addition of 15% in the case where the victim is between the age group of 50 to 60 years so as to make the compensation just, equitable, fair and reasonable. There shall normally be no addition thereafter.* "

8. Reference was made to a larger Bench of Hon'ble Apex Court in case of ***Pushpa (supra)*** on 02.07.2014. In the recent judgment dated 15.05.2015 in case ***Munna Lal Jain (supra),*** a three Judges Bench of Hon'ble Apex Court allowed future prospects in the case of self-employed persons following the observations made in case of ***Rajesh (supra)***.

9. The concept of future prospects envisages chances or opportunities for success and further progress in life which is a normal course of event for every human being involved in any avocation. Even if, keeping in view his ability, capacity etc., one may not be in a position to rise in life, there is another aspect that justifies the grant of addition in the income of the deceased, which is the 'inflationary trend' in which we all are living. I take instance of a tailor. It is a matter of common knowledge that stitching charges have increased manifold during last two decades due to increase in expenses of material/labour charges/margin of persons in this profession, with consequential increase in their income. This is because of high increase in the cost of living. The prices of grocery items of daily need have also increased manifold. The dependents of a victim in accident have

also to face the same situation. The amount of compensation is required to be just and reasonable keeping the inflationary trend in view, where the prices of the basic amenities of life are likely to increase further.

10. In view of my above discussion, the Tribunal committed no error while allowing 50% addition in income of the deceased towards future prospects while allowing the compensation to claimants. No interference on this score is called for.

11. No other argument has been advanced by learned counsel for the appellant.

This appeal has no merit. Dismissed.

October 20, 2016 **(SURINDER GUPTA)**
jk **JUDGE**

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No