IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-9351-2014
Date of decision: 23.5.2016

Sumitra Devi and another
...Appellants

Versus

Ashok Kumar and others
...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.JP Sharma, Advocate for the appellants

Mr.Vinod Gupta, Advocate for respondent No.4.

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SNEH PRASHAR, J.

Claimants-appellants being the parents of deceased Amit, who lost his life in a road side accident on 6.2.2013, filed the present appeal seeking enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, Narnaul (hereinafter referred to 'the Tribunal') vide award dated 24.7.2014 passed in MACT case No.258 of 2013.

The submissions made by Mr.JP Sharma, Advocate representing the appellants and Mr.Vinod Gupta, Advocate for respondent No.4- Insurance Company have been heard and record perused.

Learned counsel for the appellants submitted that the deceased was working as Carpenter as well as labour contractor and used to earn Rs.25,000/- per month but learned Tribunal erred in assessing his income as Rs.5620/- per month. No amount computing future prospects was added to the actual monthly income of the deceased.

The fact that Amit died due to the injuries suffered by him in a road side accident that occurred due to rash and negligent driving of the offending vehicle by respondent No.1, is no more a contentious issue. As per postmortem report Ex.P2, the deceased was 19 years aged and was a bachelor at the time of death. As regards income of the deceased, the claimants alleged that he was a carpenter as well as labour contractor but no substantive and reliable evidence could be led by them to support their claim. It could also not be proved that the deceased was earning Rs.25,000/- per month. As such, considering the notifications/ circulars issued by the State Government from time to time for fixing the minimum wages to be paid to a labourer, learned Tribunal assessed the monthly income of the deceased as Rs.5620/-, which is just and adequate.

Since the deceased was 19 years old, in view of **Amrit Bhanu Shali and others vs. National Insurance Co. Ltd. 2012 (4) RCR (Civil) 343** the multiplier of 18 and deduction of 1/2 of the actual income towards personal and living expenses of the deceased were rightly applied.

However, perusal of the award shows that no amount was added to the income of the deceased computing his future prospects. Following the law laid down in **Rajesh and others vs. Rajbir Singh and others 2013 (9) SCC,** an addition of 50% to the actual income of the deceased towards future prospects is allowed. Learned Tribunal has already awarded a sum of Rs.1,00,000/- each to father and mother of the deceased on account of loss of love and affection; Rs.25,000/- on account of funeral expenses, Rs.5000/- for loss of estate and Rs.10,000/- for transportation expenses, which is more than adequate, therefore, there is no need for any intervention under the conventional heads.

Accordingly, the total compensation comes to Rs.11,50,440/- (5620 (monthly income) + 50% (future prospects) - 1/2 (deduction towards living and personal expenses of the deceased) x 12 x 18 + 2,40,000 (under the conventional heads already awarded by Tribunal). The enhanced compensation amount of Rs.3,03,480/- (11,50,440-8,46,960) shall be paid to the appellants within two months from the date of receipt of the certified copy of this judgment, failing which, it shall carry interest @ 7.5 % per annum from the date of filing of the appeal till its realisation.

In view of the above, the present appeal is partly allowed and the award is modified to the above extent.

23.5.2016 **(SNEH PRASHAR)**
gsv **JUDGE**