IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-9684-2014
Date of decision: 1.3.2016

Jangir Singh and others

...Appellants

Versus

Daler Singh and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.AK Sharma, Advocate for the appellants

Mr.Yogesh Gupta, Advocate
for respondent No.3.-Insurance Company

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SNEH PRASHAR, J.

This appeal was filed by the claimants-appellants for enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, Patiala (for short 'the Tribunal'), vide award dated 21.5.2014, on account of the death of Rajwant Kaur, wife of appellant claimant No.1 and mother of appellants -claimants No.2 & 3, in a motor vehicular accident.

The submissions made by Mr.AK Sharma, Advocate for the appellants and Mr.Yogesh Gupta, Advocate for respondent No.3-Insurance Company have been heard and record perused.

Learned counsel for the appellant raised two fold arguments (i) the amount deducted on account of income tax from the annual income of the deceased i.e. Rs.42,400/- is on the higher side and (ii) while awarding compensation under conventional heads, no amount was awarded on account of loss of love, care and guidance to the children (appellants No.2 and 3).

Admittedly, Rajwant Kaur lost her life due to rash and negligent driving of respondent No.1- driver of the offending bus. There is no dispute regarding liability of the Insurance Company to pay the compensation to the claimants/appellants being insurer of the offending bus. The deceased was a Government Teacher at Govt. Middle School, Village Niyal and was getting salary of Rs.40,000/- per month. She was aged 51 years at the time of accident. Therefore, addition of 15% i.e. Rs.6,000/- was made to the actual income of the deceased while computing future prospects. Accordingly, the total annual income was taken as Rs.5,52,000/-. There appears no merit in the argument of learned counsel for the appellants that deduction of the amount on account of income tax was wrongly made, because as per the income tax slab prevalent in the year 2013, learned Tribunal has rightly deducted a sum of Rs.42,400/- being the income tax amount payable on the annual income of the deceased.

In the present case the claimants are the husband, young daughter and son. Following the ratio of **Rajesh and others vs. Rajbir Singh and others (2013) 9 SCC 54** learned Tribunal had awarded a sum of Rs.one lac on account of loss of consortium and Rs.25,000/- as funeral expenses, which are just and appropriate. However, nothing was awarded on account of loss of love, care and guidance to the children. In view of the law laid down in **Rajesh and others' case (supra)**, a sum of Rs.one lac is allowed to both the children on that count.

Accordingly, the enhanced compensation of Rs.one lac shall be paid to appellants No.2 and 3 in equal share 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.

1.3.2016 **(SNEH PRASHAR)**
gsv **JUDGE**