IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.276 of 2002
Date of Decision.07.07.2017

Smt. Manju Shrivastav and another ....Appellants

Vs

Shamsher Singh and others ....Respondents

Present: Mr. Sapan Dhir, Advocate
for the appellants.

Mr. Ashwani Talwar, Advocate
for the insurance company.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The appeal is for enhancement of compensation for death of a person aged 30 years. The claimants were widow and minor daughter. The deceased was working as Junior Engineer and was earning ₹7320/- per month.

The Tribunal while assessing the compensation took the income of the deceased as ₹4000/- per month and the annual dependency at ₹48,000/-. It applied multiplier of 14 and provided ₹20,000/- towards loss of consortium to assess the amount of compensation at ₹6,92,000/- along with interest @9% from the date of petition till the date of payment.

The contention of learned counsel for the appellants is that the Tribunal has not assessed the compensation in view of the parameters laid down by Hon'ble Supreme Court in ***Sarla Verma Vs. Delhi Transport Corporation and another 2009(6) SCC 121***, as it did not provide future prospect of increase, loss of love and affection, loss to estate and funeral expenses, thus, the amount of compensation is required to be enhanced by modifying the award. Moreover, the Tribunal took the dependency upon the income of the deceased as ₹4000/- per month, which is grossly on lower side.

On the contrary, Mr. Ashwani Talwar, learned counsel appearing on behalf of the insurance company contends that the Tribunal has taken care of all the heads of claim and the award is perfectly legal and justified.

I have heard learned counsel for the parties and appraised the paper book. In my view, the Tribunal has not assessed the compensation as per the formula laid down by Hon'ble Supreme Court in ***Sarla Verma's case*** (supra). I will take the income of the deceased as ₹7320/- per month, make a deduction of 1/3rd towards funeral expenses and adopt a multiplier of 17 to assess the loss of dependency. I will also add ₹1,00,000/- each towards loss of consortium, loss of love and affection, ₹5000/- towards loss of estate and ₹25,000/- for funeral expenses.

However, as regards the increase in income as future prospects, the Hon'le Supreme Court in the ratio decidendi culled out in the judgment rendered in ***Chikkamma and another Vs. Parvathama and another*** passed in Civil Appeal No.3409 of 2017 decided on 28.02.2017 has refused to grant claim for future prospects with regard to self employed person, owing to the fact that the issue with regard to award of future prospects of a self-employed person is pending before a larger Bench of Hon'ble Supreme Court. The relevant paragraph 9 of the same reads as under:-

> *"9. Taking into account the fact that the deceased was a self employed person and also as the question with regard to award of future prospects of a self employed person is presently pending before a larger Bench of this Court and as some enhancement of compensation ha already been made by*

us, we are of the view that in the facts of the present case, the claim for future prospects ought not to be gone into by us. The said claim, therefore, is refused.

In view of the ratio decidendi culled out by Hon'ble Supreme Court in ***Chikkama's case*** (supra), I will constrain myself to award any amount for future prospects at this stage, for, the aforementioned issue is pending adjudication before the larger Bench of Hon'ble Supreme Court. The amount of compensation is re-assessed and the various heads of claim are tabulated as under:-

FATAL ACCIDENT			
Age	30 years		
Occupation	Junior Engineer		
Claimants	Widow and one daughter		
	Heads of claim	**Tribunal**	**High Court**
Sl. No.		Amount (Rs)	Amount (Rs.)
1	Income	7000	7320
2	Add, % of increase	--	--
3	Less, Deduction 1/3rd	4000	4880
4	Multiplicand (annualized by multiplying 12)	48000	58,560
5	Multiplier	14	17
6	Loss of dependence	6,72,000	9,95,520
7	Medical Expenses & Transportation	--	--
8	Loss of Consortium	20,000	1,00,000
9	Loss of love and affection	--	1,00,000
10	Loss to estate	--	5000
11	Funeral expenses	--	10,000
	Total	**6,92,000**	**12,10,520**

The total compensation payable shall be ₹12,10,520/-. The amount in excess over what has already been provided by the Tribunal shall also attract interest @6% from the date of filing of the appeal till the date of realization. The liability shall be on the insurance company as fixed by the Tribunal. The enhanced amount of compensation shall be distributed equally in favour of the claimants.

The award is modified and the appeal is allowed to the above extent.

(AMIT RAWAL)
JUDGE

July 07, 2017
Pankaj*

Whether reasoned/speaking Yes/No

Whether reportable Yes/No