IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1195 of 2003 (O&M)
Date of Decision: September 20, 2017

Surjit Kaur and others

..Appellants

Versus

M/s. Amloh Bus Service and others

..Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present:- Mr. Varun jain, Advocate
for the appellants.

Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate
for respondent no.3-insurance company.

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REKHA MITTAL, J.(oral)

The claimants are in appeal seeking enhancement of compensation in regard to death of Gurdeep Singh in a motor vehicular accident that took place on 31.03.2001.

The Motor Accidents Claims Tribunal, Patiala (hereinafter to be referred as the Tribunal) assessed income of the deceased at Rs.2,100/- per month, deducted 1/3rd for personal expenses and applied multiplier of 11 to compute loss of dependency at Rs.1,84,800/-. In addition, an amount of Rs.5,000/- for loss of consortium to the widow and Rs.2,000/- for funeral expenses has been awarded, making total compensation to Rs.1,91,800/-, payable with interest.

Counsel for the appellants has submitted that the deceased was working as a Security Guard at monthly salary of Rs.3,000/- per month but the Tribunal has assessed his salary at Rs.2,100/- per month. The Tribunal has not applied correct multiplier and deduction for personal expenses. In the light of enunciation laid down in ***Sarla Verma and others Vs. DTC and another, (2009) 6 SCC 121*** no compensation has been awarded for additional income qua future prospects. Compensation awarded under conventional heads needs enhancement.

Counsel representing the insurance company, on the contrary, has supported the award with the submission that adequate compensation had been assessed by the Tribunal. It is argued that the claimants are not entitled to benefit of future prospects as the matter with regard to grant of future prospects is pending consideration before a larger Bench of Hon'ble the Supreme Court in view of the reference made in ***National Insurance Company Ltd. vs. Pushpa*** (SLP (c) No.16735 of 2014, decided on 02.07.2014) and the observations made by the Apex Court in ***Shashikala and others vs. Gangalakshmamma and another, 2015 ACJ 1239***.

I have heard counsel for the parties, perused the paper book with the able assistance of counsel for the parties.

The plea of the claimants is that the deceased was working as a Security Guard at salary of Rs.3,000/- per month. Counsel for the appellants has fairly conceded that the claimants did not adduce any tangible evidence on record to substantiate their plea in this regard. He has also not disputed that the minimum wage admissible at the relevant time was approximately Rs.2,100/- per month. In this view of the matter, assessment of income by the Tribunal cannot be faulted with.

The Tribunal has applied cut of 1/3rd for personal expenses of the deceased. The application for compensation was filed by the widow, two daughters and one son of Gurdeep Singh deceased, held entitled to get compensation. Counsel for the claimants would inform that none of the children was married at the time of his unfortunate death. Under the circumstances, admissible deduction would be 1/4th.

As per findings of the Tribunal, the deceased was 50 years old, therefore, admissible multiplier would be 13. The claimants shall be entitled to increase in income for future prospects to the extent of 15%. He would not have stagnated at monthly income of Rs.2,100/-, had he remained alive. The mere fact that reference is pending before the larger Bench of Hon'ble Supreme Court, is not sufficient to deny the said benefit till the judgment ***Rajesh and others Vs. Rajbir Singh and others 2013(3) RCR (Civil) 170*** is varied or set aside.

In view of the above, loss of dependency comes to Rs.2,82,555/- [Rs.2,100/- x 12 x 13 = Rs.3,27,600/- + Rs.49,140/- (15% increase towards future prospects) = Rs.3,76,740/- - Rs.94,185/- (1/4th deduction towards personal expenses)].

Under conventional heads, the claimants shall be entitled to following compensation:-

Sr. No.	Head of Compensation	Amount
1.	Loss of consortium to the widow	Rs.50,000/-
2.	Loss of love & affection to the children (to be shared equally)	Rs.1,20,000/-
3.	Expenses on funeral/last rites	Rs.20,000/-
4.	Loss of estate	Rs.20,000/-
	TOTAL	**Rs.2,10,000/-**

In view of the above, total compensation comes to Rs.4,92,555/- (Rs.2,82,555/- + Rs.2,10,000/-). The Tribunal had awarded Rs.1,91,800/-, which would be deducted and the additional amount of Rs.3,00,755/- (Rs.4,92,555/- - Rs.1,91,800/-) shall carry interest @ 7.5% per annum from the date of petition till realization, payable to widow of the deceased except an amount of Rs.1,20,000/- allowed to the children on account of loss of love and affection.

The appeal is partly allowed in the aforesaid manner.

(REKHA MITTAL)
JUDGE

September 20, 2017
Sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No