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

FAO No.2460 of 1999
Date of Decision.05.07.2017

Smt. Krishna Devi and others ....Appellants

Vs

Ram Sarup and others ....Respondents

Present: Mr. Ashit Malik, Advocate
for the appellants.

Mr. Ravinder Arora, Advocate
for respondent Nos.2 and 3.

Mr. Atul Gaur, Advocate and
Mr. Ram Avtar, Advocate
for respondent No.4.

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 occurred in a motor accident that took place on 03.09.1994. The claimants were widow, four children and parents. He was a graduate. The deceased was stated to be working as Salesman in M/s Bombay Belt Centre, earning ₹5000/- per month. The salary certificates were produced as Ex.PK/1 to PK/4, showing that the deceased was paid ₹6500/- as salary for a period of five months from November, 1991 upto March, 1992, ₹28,050/-, for a period of one year from April, 1991 to March, 1993, ₹33,600/- from April, 1993 to March, 1994 and ₹25,000/- from April, 1994 to August, 1994.

However, the Tribunal while assessing the compensation observed that the salary certificates did not bear any date, much less, the proprietor of the firm was not brought to witness box to prove the veracity of the aforementioned salary certificates and the person examined was no more employee of M/s Bombay Belt Centre. In the absence of any cogent proof, the Tribunal took the income of the deceased as ₹1800/- per month, deducted ₹600/- for personal expenses and applied a multiplier of 17 to assess the loss of dependence at ₹2,44,800/-. It further provided ₹10,000/- on account of loss of consortium and ₹5200/- for funeral expenses and last rites, thus, awarded a total compensation of ₹2,60,000/- with interest @15% from the date of filing of the petition till the date of recovery of the awarded amount.

Learned counsel appearing for the appellants contends that the income of the deceased assessed by the Tribunal is lower side. It should have been ₹5000/- per month as claimed by the claimants. Moreover, the Tribunal has not provided any sum under the heads of future prospect, loss of love and affection and loss to estate. Therefore, the amount of compensation is required to be enhanced by modifying the award passed by the Tribunal.

Mr. Ravinder Arora, learned counsel appearing for respondent Nos.2 and 3 and Mr. Atul Gaur, Advocate with Mr. Ram Avtar, Advocate appearing for respondent No.4 contend that the amount assessed by the Tribunal is perfectly legal and justified and there is no scope for enhancement, thus, urges this Court for dismissal of the appeal.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is scope for enhancement, for, the Tribunal has not assessed any amount under the heads of loss of love and affection and loss to estate as laid down by Hon'ble Supreme Court in ***Sarla Verma Vs. DTC 2009(6) SCC 121; Santosh Devi v. National Insurance***

Company. Ltd. & Ors., 2012 (4) SCALE 559 and ***Rajesh Vs. Rajbir Singh (2013) 9 SCC 54.*** I will take the income of the deceased as ₹2500/- per month and assess the various heads of claim as per the parameters laid down by Hon'ble Supreme Court in the aforementioned judgments.

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 other heads of claim are tabulated as under:-

FATAL ACCIDENT			
Age	30 years		
Occupation	Salesman		
Claimants	Widow, four children and parents		

	FATAL ACCIDENT		
	Heads of claim	**Tribunal**	**High Court**
Sl. No.		Amount (Rs)	Amount (Rs.)
1	Income	1800	2500
2	Add, % of increase 50%	--	--
3	Less, Deduction 1/5th	600	2000
4	Multiplicand (annualized by multiplying 12)	14,400	24000
5	Multiplier	17	17
6	Loss of dependence	2,44,800	4,08,000
7	Medical Expenses & Transportation	--	--
8	Loss of Consortium	10,000	1,00,000
9	Loss of love and affection @ Rs.50,000 each for children	--	2,00,000
10	Loss to estate	--	5000
11	Funeral expenses	5200	10,000
	Total	**2,60,000**	**7,23,000**

The total compensation payable shall be ₹7,23,000/-. 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 remain the same as fixed by the Tribunal. The enhanced amount shall be distributed in ratio of 2:2:2:2:2:1:1 amongst the widow, children and parents.

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

(AMIT RAWAL)
JUDGE

July 05, 2017
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No