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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 08.09.2017

1. **FAO-709-1998**

Santosh Gupta and another

... Appellant(s)

Versus

Surjit Singh and others

... Respondent(s)

2. **XOBJC-75-CII-2012 AND**
FAO-1759-1998

New India Assurance Company Ltd.

... Appellant(s)

Versus

Simi and another

... Respondent(s)

3. **FAO-710-1998**

Santosh Gupta and another

... Appellant(s)

Versus

Surjit Singh and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Ms. Anshiha Sharma, Advocate for
Mr. Salil Bali, Advocate
for the appellant(s) in FAO Nos.709 & 710 of 1998.

Ms. Anamika Mehra, Advocate
for the appellant(s) in FAO-1759-1998 and
for respondent No.2 FAO in Nos.709 & 710 of 1998.

Mr. Anish Setia, Advocate
for the cross-objectors,
for respondent No.1 in FAO-1759-1998 and
for respondent No.3 in FAO Nos.709 & 710 of 1998.

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AMIT RAWAL, J. (ORAL)

This order of mine shall dispose of the aforementioned appeals and cross-objections, preferred against the findings rendered by the Motor Accident Claims Tribunal (in short 'the Tribunal').

Ms. Anamika Mehra, learned counsel appearing on behalf of the Insurance Company submits that the claimant-Simi wife of the deceased Bharat Keshav Partap, after the date of accident occurred on 04.04.1996, had remarried on 10.10.1997 i.e. within a period of 1 ½ years and it is a settled law that a widow, who has remarried, is not entitled to compensation, therefore, the Insurance Company should be absolved from the indemnification.

Mr. Anish Setia, learned counsel appearing on behalf of the claimant-Simi submits that the deceased was working as Chief Executive in International Testing Centre, Panchkula and drawing the salary of ₹ 8,000/-. Learned Tribunal has applied the multiplier of 17 instead of 18 as the deceased was 24 ½ years' old. No compensation towards loss of consortium, much less, funeral expenses have been granted and future prospects have also not been granted, though the matter with regard to grant of future prospects in respect of a person above 50 years' age, has been referred to the Larger Bench, therefore, it would not be an impediment for the Tribunal or this Court to grant the compensation under the aforementioned head. In support of his contentions, he relies upon the *ratio decidendi* culled out by the Hon'ble Supreme Court in ***"Bhogireddi Varalakshmi and others V/s Mani Muthupandi and others", 2017 (3) PLR 503***, thus, urges this Court for enhancement of compensation.

Ms. Anshiha Sharma, Advocate, learned counsel appearing on behalf of the appellant(s) being the mother-in-law of Simi, submits that Simi is not entitled to compensation owing to the remarriage and therefore, compensation should have been given to the mother of the deceased being Class-I heir.

I have heard the learned counsel for the parties and appraised the paper book.

As far as the arguments of Ms. Mehra, representing the Insurance Company, this Court had an occasion to deal with the similar controversy in ***FAO No.739 of 2010*** titled as ***"Surjit Kaur V/s Rajwinder Singh and others"*** decided on 08.08.2016 and ***FAO No.3776 of 2002*** titled as ***"Kuljeet Kaur V/s Lillu Ram and others"*** decided on 02.08.2017, wherein, it has been held that remarriage is not a bar for a widow to claim compensation under the provisions of Motor Vehicles Act, 1988 and she cannot be deprived of compensation. Therefore, the plea of the Insurance Company, in view of the law noticed above, is not sustainable in the eyes of law and the same is hereby rejected.

As regards the appeals of the appellant(s) being mother-in-law of Simi, I am of the view that the mother cannot claim the modification of the award viz-a-viz the compensation being granted to Simi, on account of her remarriage and therefore, the plea of appellants is also rejected.

However, parents of the deceased are entitled to ₹ 50,000/- each for the loss of love and affection.

As regards the arguments of Mr. Setia, with regard to grant of future prospects, I am of the view that the matter is pending before the Larger Bench, therefore, the *ratio decidendi* culled out in ***Bhogireddi's case*** (supra) cited by Mr. Setia, would not be applicable to the facts and circumstances of the present case as the Hon'ble Supreme Court has unfettered powers under Article 142 of the Constitution of India, while granting the compensation and the matter is pending adjudication by listing of the matter post decision of the Larger Bench.

However, the Hon'ble Supreme Court in the *ratio decidendi* culled out in the judgment rendered in ***"Chikkamma and another V/s Parvathama and another"*** passed in Civil Appeal No.3409 of 2017 decided on 28.02.2017 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 a 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 has 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 large Bench of Hon'ble Supreme Court, therefore, I did not delve upon the arguments of Mr. Setia, for the purpose of granting enhancement by taking into consideration the future prospects as the deceased, according to him, was 24 ½ years.

However, as regards the enhancement of compensation under other heads, I provide ₹ 1 Lacs towards loss of consortium and ₹ 25,000/- on account of funeral expenses and ₹ 10,000/- towards loss of estate. I also adopt the multiplier of 18 instead of 17 as has been done by the Tribunal. The various heads of claim are tabulated as under:-

FATAL ACCIDENT		
Age	24 ½ years	
Occupation	Chief Engineer in International Testing Centre	
Claimants	Wife and parents	
	Heads of claim	**High Court**
Sr. No.		Amount (₹)
1	Income	8000
2	Add, % of increase 30% / 50%	
3	Less Deduction (1/3)	5334
4	Multiplicand (annualized by multiplying 12)	64008
5	Multiplier	18
6	Loss of dependence	1152144
7	Medical Expenses & Transportation	--
8	Loss of Consortium	1,00,000
9	Loss of estate	10000
10	Funeral expenses	25,000
	Total	**₹ 12,87,144**

The total compensation payable shall be ₹ 12,87,144/-. 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.

Resultantly, the appeal bearing ***FAO No.1759 & 710 of 1998*** are dismissed and the cross-objection bearing ***XOBJC-75-CII-2012*** is allowed and the award is modified to the aforementioned extent.

The appeal bearing FAO No.709 of 1998 in MACT Case No.91 of 1997 is partly allowed to the extent that parents are entitled to ₹ 50,000/- each for loss of love and affection and rest of findings qua awarding of compensation to the tune of ₹ 3,59,000/- on account of damage to car is upheld.

(AMIT RAWAL)
JUDGE

08.09.2017
Yogesh Sharma

Whether speaking/reasoned	**Yes/ No**	✓ Yes
Whether Reportable	**Yes/ No**	✓ No

Yogesh Sharma
2017.09.27 12:21
I attest to the accuracy and
integrity of this document