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

FAO No.128 of 2001
Date of Decision.10.08.2017

Jasmail Kaur and another ....Appellants

Vs

Union of India and others ....Respondents

Present: Mr. Sunil Chadha, Senior Advocate with
Ms. Swati Verma, Advocate
for the appellants.

Ms. Shenu Sura, Advocate
for the Union of India.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The appellants are the parents of deceased-Sarabjit Singh seeking enhancement of compensation for death of their son, who unfortunately died in the road accident on 19.04.1997. The case set up in the claim petition was that on the unfortunate day at the about 6.30 PM, the deceased was coming home with his cousin Jaswant Singh on scooter bearing registration No.PB-10Q-6477 after taking medicines from the Dr. Pannu's clinic near Arti Cinema, Ludhiana and when they reached near Mata Rani Chowk, Jagraon Bridge, Ferozepur Road, Ludhiana, the deceased, who was driving the scooter had stopped the vehicle owing to the red signal but on green signal when he started, an Air Force Heavy Vehicle bearing registration No.81R-2011 PK RAZ belonging to the Halwara Air Force struck the scooter from behind, resulting into death of Sarabjit Singh and injuries to Jaswant Singh-pillion rider.

It was stated that the deceased was a student of Punjab Agriculture University, Ludhiana and earning ₹2000/- per month from tuition work and further he was expecting income from ₹7500/- to ₹15,000/- per month after completing studies.

Mr. Sunil Chadha, Senior Advocate assisted by Ms. Swati Verma learned counsel appearing for the appellants submits, that the Tribunal has committed illegality and perversity in awarding compensation of ₹1,80,000/- by taking the income of the deceased as ₹1500/- and applied multiplier of 10 whereas admittedly the deceased was 24 years of age and multiplier should have been 18.

PW-4, Dharminder Singh, a student, stated that he along with other students was taking tuition from the deceased-Sarabjit Singh on payment of ₹500/- per month. PW1, Professor Santokh Singh had also deposed that on completion of his M.Tech course in the year 1998, initially the deceased would have been earning an income between ₹13,000/- to ₹14,000/- per month. All these factors have not been taken into consideration by the Tribunal, therefore, the award is liable to be modified.

On the contrary, Ms. Sheenu Sura, learned counsel appearing for the Union of India submits that there is no likelihood of the increase in the income of the deceased as the student would not have been earning the amount as has been projected. In the absence of any direct and cogent evidence, the income taken by the Tribunal to the tune of ₹1500/- per month is perfectly legal and justified, thus, urges this Court for dismissal of the appeal.

In rebuttal, Mr. Chadha states that the Tribunal could have taken the minimum wages, which a worker/labourer would have earned which was approximately ₹3800/- in the year of 1997.

I have heard learned counsel for the parties, appraised the paper book and of the view that the Tribunal has ignored the factum of minimum wages a labourer would have earned *viz-a-viz* the deceased being a student of M.Tech. Even if he had been pursuing his M.Tech, he would have been earning much more, at least ₹5000/- per month. He left behind parents and three unmarried sisters. The age of the father has been disclosed as 54 years and therefore, cannot be stated to be aged one. The sisters were also not dependent upon the deceased. The multiplier of 10 adopted by the Tribunal is not correct application of mind. Resultantly, the award of the Tribunal is hereby modified to the following extent.

I will take the income of the deceased as ₹5000/- per month and deduct 50% of the same towards personal expenses. I will adopt a multiplier of 18 suitable to the age of the deceased to assess the loss of dependency at ₹5,40,000/-. I will also add ₹50,000/- each to the parents towards loss of love and affection, ₹25,000/- for funeral expenses and ₹10,000/- for loss of estate.

In total, the amount of compensation payable shall be ₹6,75,000/-. 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 its realization. The enhanced amount shall be distributed equally between the parents. The liability shall remain the same as has been determined by the Tribunal.

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

(AMIT RAWAL)
JUDGE

August 10, 2017
Pankaj*

Whether reasoned/speaking	Yes
Whether reportable	No