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

FAO No.1372 of 2001
Date of Decision.05.07.2017

Ram Gopal and others ....Appellants

Vs

Ishwar Singh and others ....Respondents

Present: Mr. S.S. Kharb, Advocate
for the appellants.

Mr. Ravinder Arora, Advocate
for respondent No.3.

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 18 years in a motor accident, took place on 21.01.1999. The claimants are parents and sister.

The deceased was paddling a cycle towards Panipat when a car bearing registration No.HR-51A-5300 coming from Delhi side dashed against him from behind, resulting into serious injuries. He was rushed to Civil Hospital, Panipat from where he was referred to Medical College, Rohtak. He remained hospitalized from 21.01.1999 to 02.03.1999 i.e. till he succumbed to his injuries. They claimed that a sum of ₹2,35,000/- was spent on the deceased including attendant charges, funeral expenses and transportation. The deceased was stated to be working in M/s Sharma Dari Factory, Jatal Road, Panipat and earning ₹2450/- per month.

The contention of Mr. Kharb, learned counsel appearing on behalf of the appellants is that the Tribunal, while awarding the compensation, grossly erred in assessing the income of the deceased at ₹1800/-. It took the annual dependency at ₹450/-, which is grossly lower side and applied a multiplier of 18. He relies upon the judgment of Hon'ble Supreme Court in ***P.S. Somanathan and others Vs. District Insurance Officer and another 2011(3) SCC 566*** to contend that a cut of 1/3rd has to be applied in case of a bachelor and not one half. Therefore, the Tribunal has grossly erred in deducting the personal expenses. The Tribunal has provided ₹2000/- towards funeral expenses and nothing has been provided under the heads of loss to estate and loss of love and affection. The Tribunal has provided only a sum of ₹3500/- towards attendant charges, special diet and hospitalization, besides a sum of ₹2,80,282/- incurred on medicines and treatment of deceased in awarding a total compensation of ₹3,10,982/-, thus, the same is required to be enhanced by modifying the award of the Tribunal.

On the contrary, Mr. Ravinder Arora, 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, appraised the paper book and of the view that the amount of compensation is required to be enhanced as the Tribunal has grossly erred in assessing the annual dependency and in not providing the compensation under the heads of loss to estate and loss of love and affection.

However, as regards the contention of learned counsel for the appellants that the deduction towards personal expenses in case of a bachelor should be made on the basis of number of dependents and not 50%, I am not in agreement with the same, for, in the landmark judgment of Hon'ble Supreme Court in ***Sarla Verma Vs. Delhi Transport Corporation***

and another 2009(6) SCC 121 and subsequent judgments in ***Amrit Bhanushali Vs. National Insurance Company Limited (2012) 11 SCC 738*** and ***M. Mansoor and another Vs. United India Insurance Company Ltd. 2013 (12) SCALE 329,*** a cut of 50% has been made in case of a bachelor towards personal expenses.

As regards the increase of future prospect, 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.

Therefore, the compensation is required to be re-assessed and tabulated as under:-

FATAL ACCIDENT			
Age	18 years		
Occupation	Working in M/s Sharma Dari Factory		
Claimants	Parents and sister		
	Heads of claim	**Tribunal**	**High Court**
Sl. No.		Amount (₹)	Amount (₹)
1	Income	1800	2200
2	Add, % of increase	--	--
3	Less, Deduction 50%	450	1100
4	Multiplicand (annualized by multiplying 12)	5400	13,200
5	Multiplier	18	18
6	Loss of dependence	97,200	2,37,600
7	Attendant charges, special diet and hospitalization	3500	5000
8.	Medical Expenses	2,80,282	2,80,282
9.	Loss of Consortium	--	--
10.	Loss of love and affection	--	50,000
11.	Loss to estate	--	5000
12.	Funeral expenses	2000	25000
	Total	**3,10,982**	**6,02,882**

The total compensation payable shall be ₹6,02,882/-. 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 i.e. respondent Nos.1 to 3 shall be jointly and severally liable.

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