IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1540 of 2001 (O&M)

Date of Decision: 26.10.2017

Smt.Arvinder Kaur & Others ... Appellants

Versus

Subhash Chander and another ... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: None for the parties.

RAJIV NARAIN RAINA, J. (Oral)

1. No one is present on behalf of the parties, despite notice and listing of the case. This is amongst the five listed old cases on the regular board of Court Room No.25 to be taken up for final disposal. The paper-book of this case had been partially burnt in the fire incident some years ago in the Registry of this court. The reminants of the file has been placed in photocopy. There is sufficient indication of reasons which can be read despite the margins of the burnt paper-book.

2. The death occurred about 19 years ago in a road accident on 11th August, 1998. The deceased was a Junior Engineer working in the office of the Block Development Officer, Naraingargh and earning salary of ₹8200/- per month. He left behind his widow, two minor children besides his mother and father. Both the children were school going at the relevant time. The parents of the deceased stayed with the family and were dependant of the breadwinner.

3. The Motor Accident Claims Tribunal, Ambala vide its award dated 1st February, 2000 has granted compensation to the tune of ₹9,45,000/-. The respondent-Insurance Company and the driver are made jointly and severally

liable to pay compensation to the claimants. There appears to be no dispute that the vehicle was insured and the driver held a valid and effective driving licence, and therefore, the jurisdictional facts required for grant of relief for compensation are satisfied in this case.

4. I have considered the quantum part of compensation under different heads which are conventional. The Tribunal had applied the multiplier of 16 which is correct. The Tribunal has applied the law in **U.P. Road Transport Corporation and others vs. Trilok Chand and others,** (1996) 4 SCC 362 and held that the total units of the family should be taken into consideration for determining the dependency. The family consisted of four adult members and two minor children. The Tribunal applied the formula and multiplied two units for adult and one unit per child and worked out the total units to 10. Having got that far, the share of the deceased was calculated 6800x2/10 = ₹1360. The salary certificate of the deceased was documented which proved that the deceased was earning ₹7292/- per month. He was a government servant in all probability paying tax in the year of the death and earlier. A deduction of ₹500/- was made towards income tax and the applicable salary was brought down to ₹6800/- per month. The total dependency was worked out to ₹6800-₹1860, which came to ₹4940/- which was rounded off at ₹4900. Accordingly, annual dependency was assessed as ₹58,800/- and compensation was awarded by adopting this method in a sum of ₹9,45,000/- (9,40,000 + 2000 + 3000). There appears to be no irrationality in the principles applied by the Tribunal to assess income and dependency.

5. However, I find that only ₹2000/- has been awarded towards funeral expenses and ₹3000/- on account of loss of consortium. Nothing has been given for love and affection and care and guidance of the late father which has to be accounted for, in terms of the position following **Sarla Verma and**

others vs. Delhi Transport Corporation and another, (2009) 6 SCC 121 and **Rajesh v. Rajbir Singh,** (2013) 9 SCC 54.

6. The claimants demanded ₹10,000/- on account of funeral expenses, but the Tribunal awarded ₹2000/- on that account, therefore, the award on account of funeral expenses deserves to be increased from ₹2000/- to claimed ₹10,000. For loss of consortium, the widow is entitled to ₹1,00,000 and for loss of love and affection and care and guidance to both the children of the deceased and looking to their age, they are entitled to ₹1,00,000/- each and to the father and mother of the deceased an equal amount of ₹1,00,000/- to be shared by them 50:50. There shall be heritable right in case any one of them is dead. Loss to the estate is also being granted following the law in **Sandhya Rani Debbarma and others vs. The National Insurance Co. Ltd. and another, Civil Appeal No. 9194 of 2016 (Arising out of SLP (C) No. 1448 of 2014 decided on 16th September, 2016)** to the tune of ₹1,00,000/-. The Tribunal has not awarded compensation for future prospects. Accordingly, future prospects are assessed as follows:

Assessed monthly salary after deducting I.T.	=	6800
Future Prospectus @ 50%	=	3400
Monthly salary (6800 + 3400)	=	10,200
Deduction towards personal expenses (10,200x1/4)	=	2800
Dependency (10200-2800)	=	7400
Loss of dependency (7400x12x16)	=	14,68,800
Total compensation (14,68,800+5,10,000)	=	19,78,800

7. The total additional compensation beyond what has been awarded by the Tribunal comes to ₹19,78,800 – ₹9,45,000/- = ₹10,33,800/-. Interest was

awarded at the rate 12% per annum by the Tribunal in the year 2000 which was appropriate for the year and no change is required to be made except that the component of consortium and the amount granted on account of love and affection and loss of care and guidance will not carry interest because of substantial increase awarded by this Court after long passage of time and so as to not to burden the public exchequer since the deceased held a stable job in government service.

8. Accordingly, the appeal is partially accepted. The award is modified to the extent indicated above. The claimants are held entitled to compensation of ₹10,33,800/- (₹19,78,800 – ₹9,45,000/-) beyond the compensation awarded by the Tribunal. The amount worked out for future prospects shall be paid without awaiting decision of the Supreme Court in the pending matters referred to larger Bench. Since the parties have not been heard while passing this order, they will be at liberty to apply to this Court for variation/modification of this order in case grounds are made out for the same.

(RAJIV NARAIN RAINA)
JUDGE

26.10.2017
MFK/Vimal

Whether speaking/reasoned *Yes*

Whether Reportable *No*