IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O. No. 1005 of 2004
Date of Decision:-17.11.2017

Pal Kaur and another ....Appellants

vs.

Matwar Singh and others ....Respondents

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BEFORE: HON'BLE MR. JUSTICE SUDHIR MITTAL

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Present:- Mr. S.S. Kamboj, Advocate,
for the appellants.

Mr. Aseem Aggarwal, Advocate,
for respondent No.3.

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Sudhir Mittal, J. (Oral)

This is a claimants' appeal for enhancement of compensation granted by the Motor Accidents Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal').

2. The claimants are the parents of Balbir Singh (deceased), who was working as a Cleaner on Canter, bearing registration No.CH01N-4512. The accident took place on 30.6.2000 at about midnight on the G.T. Road near Ganaur. The claimants were riding in the Canter in which their son Balbir Singh was employed as a Cleaner. The accident took place because the Canter in which the claimants were riding hit a stationary Canter bearing registration No. DL-1LB-3547. The said Canter was improperly parked and its parking lights were not switched on. It is claimed that the

driver of Canter No. CH01N-4512 was unable to spot the stationary Canter on account of the headlights of vehicles approaching from the opposite directions. Balbir Singh (deceased) was sitting on the left side of the driver and suffered head injuries on account of this accident. He was shifted to hospital where he died at about 1.30 A.M. It is claimed that the accident was caused on account of negligence of driver of Canter No.DL-1LB-3547.

3. The Tribunal agreed with the claim made by the claimants and held that accident took place on account of the negligence of the driver of Canter No. DL-1LB-3547 and a compensation of ₹ 2,20,000/- was assessed to be paid jointly and severally by the driver and owner of Canter No.DL-1LB-3547 as well as the Insurance Company.

4. The claimants are in appeal seeking enhancement of compensation. It is stated that the income of the deceased was ₹ 2700-2800/- per month, as deposed by the owner of the Canter No. CH01N-4512 and the learned Tribunal has erred in reducing the same to the tune of ₹ 2500/- per month. The submission is that once the employer himself has deposed regarding the quantum of salary, the Tribunal should not have reduced the same unilaterally. It is further submitted that the age of the deceased was 20 years on the date of the accident and, therefore, multiplier of 11 has been wrongly applied. He also submits that future prospects have not been granted.

5. On the other hand, learned counsel appearing for the Insurance Company submits that the employer of the deceased was not ascertained regarding the salary of the deceased and, therefore, there is no error committed by the Tribunal in computing the salary of the deceased as ₹

2500/- per month. He further submits that dependency of 2/3rd has been granted whereas the deceased was a bachelor and dependency should have been assessed as 50%. He also submits that the learned Tribunal has rightly taken the age of the claimants for determining the multiplier.

6. Having heard learned counsel for the parties and having perused the record, I am of the opinion that the Tribunal has rightly assessed the salary of the deceased as ₹ 2500/- per month since the statement of his employer is not unequivocal and appears to have been made in an attempt to help the claimants. Thus, the monthly income of the deceased, has rightly been assessed as ₹ 2500/-per month by the Tribunal. However, the Tribunal has erred in taking the age of the claimants for determination of multiplier. It is settled law that the age of the deceased has to be considered for proper implementation of the multiplier. In this case, the deceased was admittedly 20 years of age on the date of the accident and, therefore, multiplier of 18 is to be applied as per the judgment of Hon'ble the Supreme Court in the case of **Sarla Verma and others vs. Delhi Transport Corporation and another 2009(6) SCC 121**. It is also not in dispute that the deceased was a bachelor and, therefore, he was utilizing half of his income for his own expenses. The dependency, thus, has to be 50%. The Tribunal has not granted anything on account of future prospects whereas as per the settled law on the subject as laid down by Hon'ble the Supreme Court in a larger Bench decision in the case of **National Insurance Company Limited vs. Pranay Sethi and others, (Special Leave Petition (Civil) No.25590 of 2014)** decided on **31.10.2017** that in case the deceased was self employed or working on a fixed salary is also entitled for

future prospects, if the income is established. The income has been established in this case and keeping in view the age of the deceased, he is entitled to future prospects at the rate of 40%. Thus, the compensation is re-assessed as under:-

1	Annual Income	₹ 30,000 (₹2500x12)
2	Increase of 40% in income on account of future prospects	₹ 42,000 (₹ 30,000+12000)
3	Deduction of 50% on account of personal expenses	₹21000 (₹ 42000-21000)
4	Annual dependency applying multiplier of 18 as deceased was 20 years of age	₹ 3,78,000 (₹ 21000x18)
5	Loss of estate	₹15000
6	Funeral Expenses	₹ 15000
7	Total Compensation	₹ 4,08,000

7. Respondent-Insurance Company would be liable to pay the enhanced compensation within a period of three months from the date of receipt of a certified copy of this judgment along with 7% interest.

8. The appeal is allowed accordingly.

November 17, 2017 **(SUDHIR MITTAL)**
poonam **JUDGE**

Whether Speaking/Reasoned **Yes**

Whether Reportable **Yes**