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

FAO No.3681 of 2005
Date of Decision.08.09.2017

Santosh Gupta and others ....Appellants

Vs

Sanjay Kumar and others ....Respondents

2. **C.R. No.5270 of 2005**

United India Insurance Company ....Petitioner

Vs

Smt. Santosh Gupta and others ....Respondents

Present: Ms. Bhawna Grewal, Advocate for
Mr. R.D. Yadav, Advocate
for the appellants in FAO No.3681 of 2005 and
for respondent No.1 to 5 in C.R. No.5270 of 2005.

Mr. Shubham Jain, Advocate for
Mr. Suman Jain, Advocate
for the petitioner in C.R. No.5270 of 2005 and
for respondent-insurance company in FAO No.3681 of 2005.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

This order of mine shall dispose of the aforementioned appeal and revision petition as arising out of the same accident. FAO No.3681 of 2005 is at the instance of the claimants seeking enhancement of compensation for death of one Mange Ram, aged 49/50 years and C.R. No.5270 of 2005 is at the instance of the insurance company challenging the quantum of compensation.

On 9.12.2003, the deceased Mange Ram was standing near bus stand Ambala Cantt. when the offending vehicle Tata Sumo bearing registration No.CH-02-1251, driven by respondent No.1 rashly and negligently struck against the deceased, resulting into multiple grievous injuries which ultimately proved fatal. An FIR bearing No.275 dated 10.12.2003 was also registered in this regard. The claimants are widow and four children. The deceased was working as Accountant in Haryana State Cooperative Supply & Marketing Federation Ltd. and earning ₹9962/- per month. The Tribunal took the average income of the deceased as ₹15,075/- per month by taking into consideration the fact that total income of the deceased would have been ₹20,185/- on the date of his retirement, applied a deduction of $1/4^{th}$ towards personal expenses and applied a multiplier of 11 to assess the compensation at ₹14,99,260/- including ₹2000/- on account of funeral expenses and ₹5000/- towards loss of consortium to the widow.

Ms. Bhawna Grewal for Mr. R.D. Yadav, learned counsel appearing for the appellants in FAO No.3681 2005 submits that the Tribunal has erred in applying the multiplier of 11 for a person who was aged 50 years at the time of accident instead of 13. It did not provide anything for loss of love and affection and loss of estate, moreover, the amount provided for loss of consortium and funeral expenses is very meager, thus, urges this Court for modification of the award passed by enhancing the amount of compensation.

Mr. Shubham Jain for Mr. Suman Jain, learned counsel appearing for the insurance company in C.R. No.5270 of 2005 submits that the Tribunal has grossly erred in taking the income of the deceased as ₹15,075/- per month when it has been proved on record that he was earning ₹9962/- per month, therefore, the amount of compensation is required to be reduced. There is no scope for enhancement, thus, urges this Court for dismissing the appeal filed by the claimants.

I have heard learned counsel for the parties, appraised the paper book and of the view that though there is some force in the submission of Mr. Jain that the Tribunal has erred in taking the income of the deceased as ₹15,075/- per month when there was documentary proof that the deceased was earning ₹9962/- per month only but the fact remains that he was entitled for 30% increase in the salary as future prospects being in permanent and secured employment as per the law laid down by Hon'ble Supreme Court in ***Sarla Verma Vs. DTC 2009(6) SCC 121***. Moreover, the Tribunal applied a wrong multiplier of 11 for a person of 50 years of age when it should have been 13. It did not provide anything for loss of love and affection to the children and the amount provided for loss of consortium and funeral expenses is also on lower side. Therefore, the amount of compensation is required to be re-assessed.

I will take the income of the deceased as ₹9962/- per month, provide a 30% increase on the same as future prospects, deduct 1/4th towards personal expenses and adopt a multiplier of 13 to assess the loss of dependency as ₹15,15,220/-. I will further add to it ₹1 lac for loss of consortium to the wife, ₹50,000/- each to the children, ₹10,000/- for loss of estate and ₹25,000/- for funeral expenses.

In all, the compensation payable shall be ₹18,50,220/-. 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 of compensation shall be distributed equally amongst the claimants. The liability shall remain the same as has been determined by the Tribunal.

The award passed by the Tribunal is modified to the above extent. Resultantly, the appeal filed by the appellants-claimants in FAO No.3681 of 2005 is allowed and the revision petition filed by the insurance company bearing No.5270 of 2005 is dismissed.

(AMIT RAWAL)
JUDGE

September 08, 2017
Pankaj*

Whether reasoned/speaking	Yes
Whether reportable	No