IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4613 of 2009
Date of decision:- February 27, 2017

KRISHNA RANI AND ANOTHER ....APPELLANTS..

VS.

OM PARKASH AND OTHERS ....RESPONDENTS..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Dheeraj Narula, Advocate,
for the appellant.

Mr. Gopal Mittal, Advocate,
for respondent No.3-Insurance Company.

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JASPAL SINGH, J.

Aggrieved against the award dated 01.05.2009 passed by Motor Accident Claims Tribunal, Sirsa (for short, "Tribunal") in MACT case No.65 of 2007 captioned as ***"Krishna Rani and another vs. Om Parkash and others",*** the appellants-claimants (parents of deceased-Pardeep Kumar) have preferred the instant appeal for enhancement thereof.

2. Shortly put the case of the appellants-claimants is that on the fateful day i.e. 14.05.2007, Pardeep Kumar, aged about 24 years, son of Prem Kumar along with Paras Ram son of Makhan Lal, resident of Mandi Dabwali was coming on scooter bearing Registration No. HR-25-A-3933 towards Mandi Dabwali, meanwhile, a truck trolla bearing registration No. RJ-23-G-1832 driven by respondent No.1 rashly and negligently came from Dabwali and dashed into their scooter. As a result of accident, Pardeep

Kumar as well as Paras Ram sustained multiple injuries and ultimately, Pardeep Kumar succumbed to his injuries. Respondent No.1 stopped the truck trolla and disclosed his name to Ajay Kumar and Rajesh Kumar (motor cyclists), who were coming behind the scooter. Thereafter, he fled away from the spot along with truck trolla. FIR No. 155 dated 14.05.2007 under Sections 279, 427 and 304-A IPC was registered in respect of the said accident at Police Station City Dabwali. The claimants have further unfolded that deceased-Pardeep Kumar was a trained and experienced accountant and was earning ₹3000/- per month from M/s Kaur Chand & Sons and ₹3000/- M/s Diwan Chand Ramesh Kumar and ₹2000/- from M/s Kishori Lal Rakesh Kumar and thus was earning ₹96,000/- per annum by doing the accountancy work.

3. Upon notice, the claim petition was resisted by respondents No.1 and 2 i.e. driver and owner as well as respondent No.3-Insurance Company.

4. After hearing learned counsel for the parties as well as appraisal of the evidence, the ld. Tribunal vide its award dated 01.05.2009 partly accepted the claim petition and awarded compensation to the tune of ₹2,62,000/- while holding respondents No. 1 to 3 jointly and severally liable along with interest @7.5 % per annum from the date of institution of the petition till realization of the awarded amount.

5. While awarding the compensation, ld. Tribunal has assessed the income of the deceased to the tune of ₹3000/- per month only. After deducting ½ towards his personal expenses, as Pardeep Kumar died unmarried, his monthly dependency was worked out to the tune of ₹1500/-

per month and annual dependency to the tune of ₹18,000/-. However, here it would be pertinent to mention that deceased-Pardeep Kumar was aged about 24 years at the time of his death yet a multiplier of 14 has been applied by ld. Tribunal which is not just and proper. As per the age of the deceased, it should have been 18. Besides it, ld. tribunal has also failed to appreciate that in view of the dictum laid down by the Hon'ble Apex Court in case captioned as ***"Smt. Sarla Verma and others vs. Delhi Transport Corporation and another" 2009(3) RCR (Civil) 77*** which has subsequently been approved in case captioned as ***"Rajesh vs. Rajbir 2013 (3) RCR (Civil) 170***. As per the guidelines, the claimants are also entitled for compensation on account of future prospects, loss of love and affection as well as funeral expenses.

6. In the case in hand, nothing has been paid either on account of future prospects or on account of loss of love and affection. However, a meagre amount of ₹10,000/- has been awarded by the ld. Tribunal on account of funeral expenses, which otherwise deserves to be enhanced to the tune of ₹15,000/-, besides a sum of ₹1,00,000/- on account of loss of love and affection and the order is made accordingly. The claimants are also entitled for compensation on account of future prospects. The deceased was 24 years of age at the time of his death in accident. Thus, claimants are entitled to 50% of the actual income of the deceased, which works out to ₹4,86,000/- (3000+1500(50%)=4500/1/2=2250x12x18). Therefore, the total compensation works out to ₹6,01,000/-. As such, the claimants are entitled to a sum of ₹3,39,000/- as enhanced compensation in addition to a sum of ₹2,62,000/- already awarded by the ld. Tribunal.

7. In the light of what has been discussed above, the appeal is partly allowed. Appellants-claimants shall be entitled to enhanced amount of ₹3,39,000/- in addition to the compensation already awarded. Although as per award there is joint liability of compensation upon respondents No. 1 to 3 yet the insurer i.e. insurance company-respondent No.3 is directed to pay the amount so enhanced within a period of two months from the date of receipt of certified copy of this order and on its failure to make the payment within stipulated period, it would entail interest @ ₹7.5% per annum from the date of filing of the clam petition before the Tribunal till its realization.

8. Parties to bear their own cost.

February 27, 2017 **(JASPAL SINGH)**
sonika **JUDGE**

Whether speaking/reasoned: Yes

Whether reportable: Yes