IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 3136 of 2007 (O&M)
Date of decision: 03.08.2017

Kavita and others .... *Appellants*

Versus

Mahesh Kumar and another ....*Respondents*

Coram: **Hon'ble Mrs. Justice Rekha Mittal**

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Present: Mr. Rajesh Lamba, Advocate
for the appellants

Mr. Vinod Gupta, Advocate
for respondent No. 2-Insurance Company

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Rekha Mittal, J. (Oral)

The claimants, three daughters of Shri Padam Singh (since deceased) have filed the appeal for enhancement of compensation assessed by the Motor Accidents Claims Tribunal, Faridabad vide award dated 13.04.2006.

Padam Singh sustained injuries in a motor vehicular accident that took place on 22.07.2000 and eventually succumbed to the injuries. The Tribunal assessed income of the deceased at Rs.2,700.00 per month by taking two units for each adult assessed dependency @ Rs.900/- per month and applied a multiplier of 15 to compute loss of dependency at Rs.1,62,000.00. In addition, an amount of Rs.10,000.00 towards funeral expenses has been awarded.

Counsel for the appellants has submitted that the Tribunal has not allowed benefit of increase in income for future prospects and compensation awarded under conventional heads needs re-look and enhancement. It is further submitted that loss of dependency is to be computed by deducting 1/3rd towards personal expenses of the deceased.

Counsel representing the insurance Company has refuted contentions of the appellants qua grant of benefit of future prospects by contending that the matter with regard to future prospects is pending consideration before a larger Bench of Hon'ble the Supreme Court of India in view reference made in ***National Insurance Company Limited v. Pushpa*** *(SLP (c) No. 16735 of 2014, decided on 02.07.2014)* and the observations made by the Apex Court in ***Shashikala and others v. Gangalakshmamma and another, 2015 ACJ 1239.***

I have heard counsel for the parties and perused the paper book particularly the award impugned.

Hon'ble the Supreme Court of India in the land mark judgment ***Sarla Verma (Smt.) v. Delhi Transport Corporation, 2009 (3) R.C.R. (Civil) 77***, in an effort to bring uniformity in compensation computing process has laid down certain principles qua deductions towards personal expenses, multiplier in general and benefit of future prospects to regular employees. Later, benefit of future prospects was extended in cases where the victim had a fixed income or self employed in ***Rajesh and others v. Rajbir Singh and others, 2013 (3) R.C.R. (Civil) 170.***

The Tribunal has assessed income of the deceased at Rs.2,700.00 per month. The claim has been preferred by three daughters of the deceased. In view of number of dependents, admissible deduction would be 1/3rd and loss of dependency **Rs.1,800.00** per month. The deceased was 43 years of age and admissible multiplier would be 14 in place of 15. The mere fact that the matter is pending before a larger Bench of Hon'ble the Supreme Court is not sufficient to deny benefit of increase in income for future prospects. After extending benefit of future prospects to the extent of 30%, loss of dependency comes to **Rs.3,93,120.00** (1800 x 12 x 14 (3,02,400.00) + 90720.00 (30% F.P.). The compensation awarded by the Tribunal for funeral expenses to the tune of Rs.10,000.00 is affirmed. The appellants are allowed Rs.1,50,000.00 (to be shared equally) for loss of love and affection, care and guidance of their father. In view of the above, total compensation comes to **Rs.5,53,120.00** (3,93,120.00 + 10,000.00 + 1,50,000.00) and additional amount is **Rs.3,81,120.00** (5,53,120.00 - 1,72,000.00) which shall carry interest at the rate of 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

03.08.2017
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No