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

FAO No.143 of 2011
Date of Decision.08.08.2017

Suman and others ....Appellants

Vs

Bal Bhushan and others ....Respondents

2. **FAO No.144 of 2011**

Tamanna Rani and another ....Appellants

Vs

Bal Bhushan and others ....Respondents

Present: Mr. Dheeraj Narula, Advocate
for the appellants.

Ms. Divya Godara, Advocate
for respondent No.1.

Mr. Aseem Aggarwal, Advocate and
Mr. Vinod Gupta, Advocate
for the insurance company.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

-.-

AMIT RAWAL J.(ORAL)

This order of mine shall dispose of two appeals bearing Nos.143 and 144 of 2011 arising out of the same accident. Both the appeals are for enhancement of compensation for death of one Sat Pal and Dalip. On 2.12.2008, they were going from Modiakhera to Sirsa on scooter when a tempo/canter bearing registration No.HR-57-1653 driven rashly and negligently by respondent No.1 struck the scooter, resulting into death of both the afore-named persons.

As regards FAO No.143 of 2011, the appellants are the legal representatives of deceased-Sat Pal. He was stated to be a Carpenter and earning ₹7000/-. The Tribunal while assessing the compensation took the income of the deceased as ₹3000/- per month, made a cut of 1/4th towards personal expenses and adopted a multiplier of 18 to assess the loss of dependency at ₹4,86,000/-. It added another sum of ₹5,000/- each towards consortium to the wife and funeral expenses and ₹3000/- towards loss of estate, thus, in total a sum of ₹4,99,000/- was awarded with interest @6% from the date of petition till realization.

As regards FAO No.144 of 2011, the appellants are the legal representatives of deceased-Dalip. He was stated to be running a Barber shop and earning ₹9000/- per month. The Tribunal in this case also while assessing the compensation took the income of the deceased as ₹3000/- per month and awarded a sum of ₹4,99,000/- with interest @6% per annum from the date of claim petition till its realization by adopting the same formula as done in the case of deceased-Sat Pal.

Mr. Narula, learned counsel appearing on behalf of the appellants in both the cases submits that the awards passed by the Tribunal in both the cases are not in consonance with the formula prescribed by Hon'ble Supreme Court in ***Sarla Verma Vs. DTC 2009(6) SCC 121***. It grossly erred in assessing a meager amount of ₹5,000/- towards loss of consortium and not providing anything for loss of love and affection to the children. Moreover, the income assessed at ₹3000/- per month is on lower side, therefore, there is scope for enhancement.

On the contrary, Ms. Divya Godara, learned counsel appearing for respondent No.1 and Mr. Vinod Gupta and Mr. Aseem Aggarwal, learned counsel appearing the insurance company submit that the awards passed by the Tribunal in both the cases are fair and just and there is no further scope for enhancement. The Tribunal has rightly assessed the income of the deceased persons and the multiplier, thus, urges this Court for upholding the awards passed by the Tribunal.

I have heard learned counsel for the parties and appraised the paper book. As regards the income of the deceased in both the cases, I am of the view that in the absence of any direct and cogent evidence, the Tribunal should have taken the income of the deceased as ₹3664/- per month in both the cases as in the year 2008, the minimum wages prevalent in the State of Haryana were to the tune of ₹3664/- per month. However, the deduction made towards personal expenses and the multiplier adopted is correct, therefore, the loss of dependency will be ₹5,93,568/-. I will also provide ₹1 lac towards loss of consortium to the wife, ₹1 lac each to the children and ₹50,000/- each to the parents for loss of love and affection. Besides, this I will also provide ₹25,000/- towards funeral expenses and ₹10,000/- for loss of estate. The total compensation payable shall be ₹10,28,568/-. 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 realization. The enhanced amount shall be distributed in the ratio of 2:2:1:2:1 i.e. the parents will get half of the share of other claimants. The liability shall remain the same as has already been determined by the Tribunal.

As regards FAO No.144 of 2011 again, I will take the same income as has been taken in connected case i.e. ₹3664/- per month, make a deduction of 1/4th towards personal expenses and adopt multiplier of 18 as has been done by the Tribunal to assess the loss of dependency as ₹5,93,568/-. To this, I will also add ₹1 lac towards loss of consortium to the wife, ₹1 lac to the child and ₹50,000/- each to the parents for loss of love and affection. I will further add ₹25,000/- towards funeral expenses and ₹10,000/- for loss of estate, thus, the total compensation payable shall be ₹9,28,568/-. 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 realization. The enhanced amount shall be distributed in the ratio of 2:2:1:1 i.e. the parents will get half of the share of other claimants. The liability shall remain the same as has already been determined by the Tribunal.

The awards stand modified and the appeals are allowed to the above extent.

(AMIT RAWAL)
JUDGE

August 08, 2017
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No