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

FAO No.1851 of 2011
Date of Decision.09.08.2017

Gurmit Kaur and another ....Appellants

Vs

Rachpal Singh and another ....Respondents

Present: Mr. Rajeev Dev Sharma, Advocate
for the appellants.

Mr. R.K. Bashamboo, Advocate
for the insurance company.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

-.-

AMIT RAWAL J.(ORAL)

The appellants are the legal representatives of deceased-Mandeep Singh, who died in a motor vehicular accident that took place on 02.06.2006. The deceased was going from village Parowal to Batala on his motor cycle bearing registration No.PB-06T-5235 when another motor cycle bearing registration No.PB-02-AD-4098, being driven rashly and negligently by respondent No.1, in an attempt to cross a bus hit against the deceased's motor cycle, in essence, it was a head on collision. The claimants are widow and mother. The deceased aged 26 years was serving in Indian Army and drawing monthly salary of ₹10,490/-.

The Tribunal while assessing the compensation, took the income of the deceased as ₹10,490/-, applied a deduction of 1/3rd towards personal expenses and the amount of ₹2100/-, which the widow was getting as pension after the death of his husband. It applied a multiplier of 14 to assess the compensation of ₹8,25,000/- with interest @6% from the date of filing of the petition till its realization, which included ₹2000/- on account of funeral expenses.

Mr. Sharma, learned counsel appearing for the appellants contends that the Tribunal has grossly erred in deducting the amount of pension from the salary drawn by the deceased, much less, the multiplier of 14 is also wrong. It did not prove anything under the conventional heads of loss of consortium, loss of love and affection and loss of estate. The deceased was in permanent employment, therefore, 50% increase in salary for future prospects ought to have been granted by the Tribunal, thus, the amount of compensation is required to be re-assessed as per the formula prescribed by the Hon'ble Supreme Court in ***Sarla Verma Vs. DTC 2009(6) SCC 121.***

Per contra, Mr. Bashamboo, learned counsel appearing on behalf of the insurance company submits that the compensation assessed by the Tribunal is legal and just, keeping in view the fact that the accident took place in the year 2006 and there is no scope for further enhancement.

I have heard learned counsel for the parties, appraised the paper book and of the view that the Tribunal has committed illegality and perversity in deducting the amount of pension from the salary drawn by the deceased. This view of mine is derived from the judgment rendered by Hon'ble Supreme Court in ***Reliance General Insurance Company Limited Vs. Shashi Sharma and others (2016) 9 SCC 627*** wherein while dealing with Rule 5 of the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006, it held that other benefits extended to the dependents of the deceased Government employee in terms of sub-rule (2) to sub-rule (5) of Rule 5 including family pension, life insurance, provident fund etc. must remain unaffected and cannot be deducted, which, any way would be paid to the dependents of the deceased government employee.

Therefore, I will take the income of the deceased as ₹10,490/- per month and provide increase of 50% in salary for future prospects in view of the ratio decidendi culled out by Ho'ble Supreme Court in ***Sarla Verma's case*** (supra) and other subsequent judgments. I will make a cut of 1/3rd towards personal expenses and adopt a multiplier of 17 to assess the loss of dependency at ₹21,39,960/-. I will add a further sum of ₹1 lac towards loss of consortium to the wife and ₹50,000/- towards loss of love and affection to the mother, ₹25,000/- for funeral expenses and ₹10,000/- for loss of estate.

In toto, the compensation payable shall be ₹23,24,960/-. 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 between the claimants in the ratio of 2:1 i.e. the mother will get half of the share what the widow will get. The liability shall remain the same as has already been determined by the Tribunal.

The award passed by the Tribunal is modified and the appeal is allowed to the above extent.

(AMIT RAWAL)
JUDGE

August 09, 2017
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No