IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2736-2011 (O&M)
Date of decision: 31.10.2017

SHAHJADE SINGH ...Appellant

Versus

POOJARI @ MANOJ KUMAR & ORS. ...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Abhinav Gupta, Advocate
for the appellant.

Mr. A.S. Sidhu, Advocate
for respondent No.2.

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REKHA MITTAL, J. (Oral)

The claimant is in appeal seeking enhancement of compensation in regard to death of Shubhdesh in a motor vehicular accident that took place on 02.04.2009.

The Tribunal assessed income of the deceased at Rs.3,000/- per month, deducted 50% for personal expenses and applied multiplier of 10 to compute loss of dependency at Rs.1,80,000/-. In addition, an amount of Rs.10,000/- for transportation and last rites has been awarded making total compensation to Rs.1,90,000/- payable with interest @ 9% per annum from the date of petition till realization.

Counsel for the appellant has contended that the Tribunal has not allowed benefit of increase in income for future prospects. Multiplier of 10 on the basis of age of the claimant has been applied in place of an appropriate multiplier on the basis of age of the deceased. Compensation awarded under conventional heads needs enhancement.

Counsel representing the insurance company has supported the award with the submission that adequate compensation has been assessed by the Tribunal.

I have heard counsel for the parties, perused the paper book particularly award dated 11.03.2010 passed by the Motor Accidents Claims Tribunal, Gurgaon.

The Tribunal has assessed income of the deceased at Rs.3,000/- per month on the basis of statement of Vikas Yadav PW5 who deposed that the deceased was working as helper on his crane at monthly salary of Rs.3,000/-. In the light of enunciation laid down by Hon'ble the Apex Court in Special Leave Petition (Civil) No.25590 of 2014 decided by a Constitution Bench on 31.10.2017, admissible addition in income qua future prospects in the circumstances would be 40% as the deceased was 19 years old.

The Tribunal has applied multiplier of 10 on the basis of age of the claimant (father of the deceased). In the aforesaid judgment, in Sub-Para vii of Para 61 of the judgment, it has been held that age of the deceased would be the basis for applying the multiplier. In the light of judgment of Hon'ble the Apex Court **Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77**, appropriate multiplier in the given circumstances would be 18. Deduction for personal expenses allowed by the Tribunal is affirmed.

In view of the above, loss of dependency comes to Rs.3000 x 12 x 18 + 40% (future prospects) – 50% (deduction for personal expenses) = Rs.4,53,600/-.

Under conventional heads, the claimant is allowed Rs.15,000/- for loss of estate and another Rs.15,000/- for transportation and funeral expenses.

The total compensation comes to Rs.4,83,600/- and the additional amount is Rs.2,93,600/- (4,83,600 – 1,90,000). The additional amount shall carry interest @ 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

31.10.2017 **(REKHA MITTAL)**
ashok **JUDGE**

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