

In the High Court of Punjab and Haryana at Chandigarh

FAO No. 5594 of 2011
Date of Decision:9.8.2017

Sajjan Singh and others

---Appellants

vs.

Satish Kumar Sharma and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. A.K. Yadav, Advocate
for the appellants

Mr. Rajbir Singh, Advocate
for the insurance company

Rekha Mittal, J.

The unfortunate parents of Rahul are in appeal seeking enhancement of compensation assessed by the Motor Accidents Claims Tribunal, Rewari (hereinafter to be referred to as “the Tribunal”).

The Tribunal assessed income of the deceased at Rs. 3000/- per month, deducted 50% for his personal expenses and applied multiplier of 15 to compute loss of dependency at Rs. 2,70,000/-, held to be payable with interest @ 6% per annum from the date of petition till realization.

Counsel for the appellants has submitted that income of the deceased assessed by the Tribunal is on lower side which is less than minimum wage available to a casual worker at the relevant time when

otherwise the deceased was a student of 10+2, aged about 17 years at the time of death. The Tribunal has wrongly applied multiplier of 15 in place of 18, in the light of judgment of Hon'ble the Supreme Court of India **Sarla Verma and others vs. Delhi Transport Corporation and another 2009 ACJ 1298**. No addition in income towards future prospects has been allowed and the same should be 50% as the deceased was 17 years old. The appellants are entitled to get compensation under conventional heads.

Counsel representing the insurance company, on the other hand, has supported the award with the submission that the claimants categorically pleaded that the deceased was earning Rs. 3,000/- per month by doing tuition, therefore, there is no justification for increase in income. It is further submitted that the matter with regard to grant of future prospects is pending consideration before a Larger Bench of Hon'ble the Supreme Court of India in view of reference made in **National Insurance Co. Limited vs. Pushpa**, therefore, claim for future prospects is liable to be rejected.

I have heard counsel for the parties, perused the paper book particularly the award passed by the Tribunal.

Perusal of the award would make it evident that the claimants raised a specific plea that the deceased was earning Rs. 3000/- per month by doing tuition work. In view of claim made by the appellants, the Tribunal has rightly assessed income of the deceased at Rs. 3000/- per month. The deceased was a young boy aged 17 years. There is nothing on record suggestive of the fact that he was suffering from any disability to work to the best of his capacity for making good earning. Had the

deceased remained alive, he would not have stagnated at income of Rs. 3000/- per month. The mere fact that the matter with regard to future prospects is pending consideration before a Larger Bench of Hon'ble the Supreme Court is not sufficient to deny benefit of future prospects till judgment in *Rajesh and others vs. Rajbir Singh and others 2013(3) RCR (Civil) 170* is varied or set aside. After allowing benefit of increase in income for future prospects to the extent of 50% and deducting 50% for personal expenses, loss of dependency comes to Rs. 2250 x12 = Rs.27,000/- per annum. The Tribunal has adopted multiplier of 15 to compute loss of dependency. As per judgment in *Sarla Verma and others' case (supra)*, admissible multiplier for age group of 15-25 years is 18. After allowing multiplier of 18, loss of dependency comes to Rs. **27,000 x18 =Rs.4,86,000/-**.

Under conventional heads, the appellants shall be entitled to an amount of **Rs. 25,000/-** for expenses on funeral, **Rs. 50,000/-** for loss of love and affection to the mother and **Rs. 25,000/-** for loss of estate. The total compensation comes to **Rs.5,86,000/-** and the additional amount is **Rs. 3,16,000/-** payable with interest at the rate of 7.5% per annum from the date of petition till realization, exclusively to mother of the deceased.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

9.8.2017
paramjit

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