203-A

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.3105 of 2012
Date of Decision: 12.07.2017

GURMIT KAUR AND ANR.

......Appellants

Vs

JAGJIT SINGH AND ORS.

.....Respondents

CORAM: ***HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Mr. Vivek Suri Advocate
for the appellants.

Mr. Gopal Mittal, Advocate
for respondent No.3.

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RAJ MOHAN SINGH, J. (Oral)

[1]. This is an appeal preferred by the claimants for enhancement of compensation awarded by the Motor Accident Claims Tribunal (hereinafter to be referred as 'the Tribunal'), Patiala.

[2]. In case of death of Sukhjinder Singh @ Sukhwinder Singh son of Gurmail Singh aged 19 years, who was working as a driver and also an electrician, the Tribunal has awarded total amount of Rs.1,65,000/- as compensation after fixing the notional income of the deceased to the tune of Rs.15,000/- per annum. The Tribunal held that the accident took place on

account of rash and negligent driving of respondent No.1 and the vehicle was duly insured.

[3]. At the time of preliminary hearing, notice was issued only to respondent 3-Insurance Company as the liability was adjudged as joint and several. The factual matrix of the case is not in dispute. The deceased Sukhjinder Singh @ Sukhwinder Singh was working as a driver and also an electrician. Deceased was 19 years of age. The Tribunal applied multiplier of 14 on the basis of ages of the claimants while awarding the compensation in question.

[4]. I have heard learned counsel for the parties.

[5]. Evidently, the deceased was 19 years of age at the time of accident and was claimed to be a driver and an electrician. In the absence of any material on record, the deceased can be treated to be a daily wager against monthly salary of Rs.4,000/-.

[6]. In the light of ratio laid down by the Hon'ble Apex Court in ***R.K. Malik and another vs. Kiranpal and others, 2009 ACJ, 1924***; ***General Manager, Kerala State Road Transport Corporation vs. Susamma Thomas, 1994 ACJ 1 (SC)***; ***Sarla Dixit vs. Balwant Yadav, 1996 ACJ, 581 (SC)*** and ***Lata Wadhwa vs. State of Bihar, 2001 ACJ, 1735***, if monthly income i.e Rs.4,000/- as assessed by this Court of the deceased is added with the 50% towards future prospects,

keeping in view the age of the deceased then, it comes out to be Rs.6,000/-. Since deceased was bachelor and survived by the claimants, therefore, 50% of the aforesaid amount is to be deducted in respect of personal expenses of the deceased and 50% as the contribution towards the family. In this way, the annual dependency comes out to be as Rs.36,000/- (3000 x 12).

[7]. In view of ratio laid down in ***Sarla Verma vs. Delhi Transportation Corporation, 2009 ACJ 1298 (SC)*** and ***Amrit Bhanu Shali and others vs. National Insurance Company Ltd and others, 2012(4) RCR (Civil) 343,*** on the basis of age of the deceased, multiplier of 18 is to be applied. In this way assessment towards dependency comes out to be Rs.6,48,000/- (36,000 x 18). Then in view of ***Vimal Kanwar and others vs. Kishore Dan and others, 2013(2) RCR (Civil) 945*** and ***Kishan Gopal vs. Lala (2014) 1 SCC 244*** an amount of Rs.1,00,000/- can be assessed towards loss of love and affection and Rs.25,000/- towards funeral expenses. In this way, total amount of compensation comes out to be calculated as Rs. 7,73,000/- (6,48,000 + 1,00,000 + 25,000).

[8]. Out of the aforesaid amount, the amount calculated towards future prospects, is to be deposited in the form of fixed deposit in some nationalized bank and shall be paid to the

successful party after decision in case titled "***National Insurance Company Limited vs. Pushpa and others, 2015(9) SCC 166"*** by the Hon'ble Apex Court. The balance/enhanced amount shall be paid to the claimants along with interest @ 7.5% per annum from the date of filing of claim petition till realization of the amount.

[9]. In view of aforesaid modification, the present appeal stands disposed of.

July 12, 2017 **(RAJ MOHAN SINGH)**
Atik **JUDGE**

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