IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 3396 of 2012 (O&M)
Date of Decision : 15.11.2017

PARWATI AND OTHERS

.... Appellants

Versus

DHARMENDER SINGH AND OTHERS

.... Respondents

CORAM : HON'BLE MR. JUSTICE B.S.WALIA

Present: Ms. Ekta Thakur,Advocate for the appellants.

Mr. Ashwani Talwar, Advocate for respondent No.3-Insurance Company.

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<u>B.S.WALIA, JUDGE (ORAL)</u>

1. Appellant-claimants i.e. mother and four siblings of deceased Sooka have sought enhancement of compensation of ₹2,80,000/- awarded by the Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal') by taking into account age of deceased as 16 years, income at ₹3000/- per month, deduction of 50% for personal expenses and applying a multiplier of 15 besides awarding a sum of ₹3000/- on account of funeral expenses and ₹7000/- towards loss of love and affection.

2. Learned counsel for claimants-appellants contended that the compensation of ₹2,80,000/- awarded to the claimants-appellants in their claim petition under Section 163-A of Motor Vehicles Act (hereinafter referred to as 'the Act') is liable to be enhanced on the following grounds:

Firstly, that since the deceased was a labourer and minimum wages payable to a labourer in the Union Territory, Chandigarh

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in the year 2009, was ₹3914/- income of the deceased was required to be assessed as ₹3300/- per month.

Secondly, in terms of Note 1 to the Second Schedule to the Act, deduction on account of personal expenses was to be made @ 1/3. Accordingly, dependency was liable to be revised from 1/2 to 2/3[rd,]

Thirdly, in view of the admitted age of the deceased i.e. 16 years, multiplier of 16 was required to be applied instead of multiplier of 15 as applied by the learned Tribunal in view of the Second Schedule to the Act, which provides that in case where the deceased was between the age group of 15 to 20 years, multiplier of 16 was to be applicable.

Fourthly, it has been urged that no amount has been awarded on account of loss of estate and that a sum of ₹2500/- was liable to be paid on said account in terms of Note 3 to the Second Schedule to the Act.

3. Learned counsel for the respondent/Insurance Company has admitted that the minimum wages payable to a labourer in the Union Territory, Chandigarh, in the year 2009 was ₹3914 per month. He has also not disputed the claim of the appellants for enhancement of the income of the deceased from ₹3000/- to ₹3300/- per month.

4. I am also of the considered view that since the minimum wages payable to a labourer in UT Chandigarh in the year 2009 was ₹3914/- per month, it would be reasonable to assess the income of the deceased at ₹3300 per month by taking into account that during some days in the month the deceased may not have got work. Therefore, the income of the deceased assessed at ₹3000 by the learned Tribunal is enhanced to ₹3300/- per month. The plea of the claimants-appellants for modification of the dependency assessed is also liable to be accepted and the dependancy enhanced in terms

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of Note 1 to the Second Schedule to the Act, as per which, in case of fatal accident, claim of compensation assessed is to be reduced by 1/3rd on account of personal expenses of the deceased. Therefore, by making deduction of 1/3rd from the income of the deceased, dependency is worked out at 2/3rd.

5. Thirdly, the plea of the appellants for enhancement of the multiplier from 15 to 16 also merits acceptance in view of the Second Schedule to the Act as per which in case the age of the deceased is between 15 to 20 years, multiplier of 16 is applicable. Since the deceased was 16 years of age, multiplier applied has to be "16" and not "15". Accordingly, the finding of the learned Tribunal with regard to multiplier is modified to 16 and multiplier of 16 is to be applied.

6. Learned counsel for the respondent-Insurance company contends that as per Second Schedule to the Act, a sum of ₹2000/- is liable to be paid on account of funeral expenses, no amount is payable on account of loss of love and affection while a sum of ₹2500/- is payable on account of loss of estate whereas the tribunal has awarded a sum of ₹3000 towards funeral expenses, ₹7000/- towards loss of love and affection and Nil on account loss of estate.

7. Learned counsel for the parties jointly contend that the amount awarded towards conventional heads has to be revised according to Note 3 to the Second Schedule to the Act.

8. Accordingly, a sum of ₹2000/- is awarded towards funeral expenses and ₹2500 towards loss of estate i.e. total sum of ₹4500/-. No amount is to be awarded on account of loss of love and affection. So, as against the compensation of ₹2,80,000/-awarded earlier along with interest @ 6% per

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annum, the compensation now payable would be ₹3300 x 12 x 16 x 2/3 + ₹4500 = ₹4,26,900/-.

9. Consequently, the appeal is allowed in the aforementioned terms. Accordingly, the sum of ₹2,80,000/- along with interest of 6% awarded by the learned Tribunal is modified and now the claimants-appellants would be entitled to payment of ₹4,26,900/- along with interest @ 6% per annum with effect from the date of claim petition till the date of payment, less amount, if any, already paid.

10. Needless to mention that after making payment of the awarded compensation to the claimants-appellants, the Insurance Company would be at liberty to recover the same from the registered owner of the offending vehicle.

11. Accordingly, the appeal is disposed of in the above terms.

(B.S.WALIA)
JUDGE

November 15, 2017
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1. Whether speaking/reasoned: Yes/No
2. Whether reportable: Yes/No

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