IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO No. 3926 of 2012
Date of decision: 16.08.2017

Gunja Rani and others .... *Appellants*

Versus

Pawan Kumar and others ....*Respondents*

Coram: **Hon'ble Mrs. Justice Rekha Mittal**

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Present: Mr. S K Goyat, Advocate
for the appellants

Mr. Sanjiv Pabbi, Advocate
for respondent No. 3

Mr. Rajneesh Malhotra, Advocate
for respondent No. 5

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Rekha Mittal, J. (Oral)

The claimants are in appeal seeking enhancement of compensation in regard to death of Raju son of Ram Parkash in a motor vehicular accident that took place on 18.01.2010.

The Tribunal assessed income of the deceased at Rs.4,500.00 per month, deducted 1/3rd for personal and living expenses and adopted multiplier of 16 to compute loss of dependency at Rs.5,76,000.00. In addition, an amount of Rs.10,000.00 for loss of consortium, Rs.10,000.00 for expenses on last rites and transportation of dead body and Rs.50,000.00 for loss of love, affection and care has been awarded making total compensation to Rs.6,46,000.00 payable with interest at the rate of 7.5% per annum.

Counsel for the appellants would urge that the Tribunal has wrongly applied a cut of 1/3rd in place of 1/4th for personal and living expenses of the deceased. The claimants have not been allowed benefit of future prospectus to the extent of 50%. Compensation awarded under conventional heads needs re-look and enhancement.

Counsel representing insurance company-respondent No. 3 has supported the assessment made by the Tribunal with the submission that just and reasonable compensation has been awarded to the claimants.

I have heard counsel for the parties, perused the paper book particularly the award impugned.

The Tribunal has assessed income of the deceased at Rs.4,500.00 per month and the same appears to be in consonance with the minimum wage available in the State of Haryana at the relevant time. However, the deceased left behind family consisting of his widow, two minor children and parents, thus, admissible deduction for personal and living expenses would be 1/4th. The multiplier allowed by the Tribunal is affirmed. The claimants shall be entitled to benefit of increase in income for future prospects to the extent of 50% in the light of judgment of Hon'ble the Supreme Court of India ***Rajesh and others v. Rajbir Singh and others 2013(3) R.C.R. (Civil) 170.*** The mere fact that a reference is pending before a larger Bench of Hon'ble the Supreme Court of India in view of reference made in ***National Insurance Company Limited v. Pushpa*** *(SLP (c) No. 16735 of 2014, decided on 02.07.2014)* and observations made by the Apex Court in ***Shashikala and others v. Gangalakshmamma and***

another, 2015 ACJ 1239 is not sufficient to deny benefit of future prospects till the judgment in *Rajesh's* case (supra) is varied or set aside. This apart, the deceased left behind a large family consisting of five persons. There is nothing on record suggestive of the fact that the deceased was suffering from any ailment much less disability to impair his working capacity. He would not have stagnated at income of Rs.4,500.00 per month, had he remained alive. Even the State Government revises the minimum wages after a short interval i.e. about six months. By extending benefit of increase in income for future prospects to the extent of 50% and deducting 1/4th for personal and living expenses, loss of dependency comes to **Rs.9,72,000.00** (4500 x 12 x 16) + 50% F.P. - 1/4th deduction.

Under conventional heads, the widow is awarded Rs.1,00,000.00 for loss of consortium. The children of the deceased shall be entitled to Rs.1,50,000.00 (to be shared equally) for loss of love, affection, care and protection of their father. Compensation of Rs.50,000.00 awarded by the Tribunal for loss of love and affection is allowed to mother of the deceased. The appellants shall be entitled to Rs.25,000.00 for expenses on funeral and last rites and another sum of Rs.25,000.00 for loss of estate. The total compensation comes to Rs.13,22,000.00 and the additional amount is **Rs.6,76,000.00.** The additional amount shall carry interest at the rate of 7.5% per annum from the date of petition till realization payable exclusively to children of the deceased except the amount of loss of consortium. The amount falling to share of children shall be deposited in Fixed Deposit Receipts for a period of three years or till they attain the age of majority, whichever is later. However, the interest on

FDRs shall be payable to their mother for meeting expenses of the children.

The other terms and conditions of the award shall remain the same.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

16.08.2017
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No