In the High Court of Punjab and Haryana at Chandigarh

FAO No. 6491 of 2012 (O&M)
Date of Decision:1.8.2017

Ram Kumar and others

---Appellants

vs.

Ashok Kumr and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

***

Present: Mr. Rakesh Dhiman, Advocate
for the appellants

Mr. A.K.Gupta, Advocate
for respondent Nos. 2 to 4

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Rekha Mittal, J.

The claimants are in appeal seeking enhancement of compensation in respect of death of their son Rahul on 14.6.2011 due to sustaining injuries in a motor vehicular accident that took place on 8.6.2011.

The Motor Accidents Claims Tribunal, Gurgaon (in short "the Tribunal") assessed income of the deceased at Rs. 6340/- per month, deducted 50% towards personal expenses, applied a multiplier of 13 to compute loss of dependency at Rs. 4,94,520/-. In addition, an amount of Rs, 50,000/- for loss of love and affection and Rs. 10,000/- for transportation and last rites has been awarded making total compensation to Rs. 5,54,500/-, payable with interest @ 7.5% per annum from the date of petition till realization.

Counsel for the appellants has submitted that the Tribunal has applied a multiplier of 13 in view of age of father of the deceased whereas multiplier should be 18 as the deceased was 21 years old. The claimants are entitled to benefit of increase in income for future prospects to the extent of 50% as the deceased was a young energetic person, working as a Caddy in DLF Golf Club. Compensation awarded under conventional heads needs re-look and enhancement.

Counsel representing respondent Nos. 2 to 4 has supported the award with the submission that adequate compensation has been awarded by the Tribunal.

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

The Tribunal has assessed income of the deceased at Rs. 6340/- per month on the basis of statement of R.K.Sharma PW5. Sh. R.K.Sharma, Manager, Area Secure Services, Gurgaon PW5 deposed that the deceased was employed with Secure Services as Caddy and working in DLF Golf Club as such on behalf of Secure Services.

Counsel representing respondents No. 2 to 4 has disputed entitlement of the claimants to get benefit of future prospects on the premise that there is no evidence adduced by the claimants that income of the deceased would have increased in near future. There is nothing on record suggestive of the fact that the deceased was suffering from any disability to work to the best of his capacity. He was working as Caddy in DLF Golf Club, Gurgaon. It is difficult to believe that had the deceased remained alive, he would have stagnated at a salary of Rs. 6340/- per month. Under the circumstances, the claimants are entitled to benefit of increase in income towards future prospects to the extent of 50%. The Tribunal has adopted a multiplier of 13 as per age of father of the deceased. In the light of enunciation laid down in **Sarla Verma and others vs. Delhi Transport Corporation and another 2009 ACJ 1298** and **Munna Lal Jain vs. Vipin Kumar Sharma 2015(3) RCR(Civil) 447**, appropriate multiplier, in the given circumstances would be 18 in place of 13. In view of the above, loss of dependency comes to Rs. 6340 x 12 x 18= 13,69,440 + 6,84,720 (50%)= 20,54,160 – 10,27,080(50%) = **Rs. 10,27,080/-.**

Compensation awarded by the Tribunal for loss of love and affection to the claimants is affirmed. They shall be paid an amount of **Rs. 25,000/-** towards transportation and last rites and another sum of **Rs. 25,000/-** for loss of estate. The total compensation comes to **Rs. 11,27,080/-** and the additional amount is **Rs, 5,72,580/-**. The additional amount shall carry interest @ 7.5% per annum from the date of petition till realization, payable exclusively to mother of the deceased.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

1.8.2017
paramjit

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