IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.857 of 2012(O&M)

Date of decision: 7.9.2017

Nirmala and others …..Appellants

VERSUS

Gurcharan Singh and another .....Respondents

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CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Nikhil Chopra, Advocate for the appellants.

Mr. Palvinder Singh, Advocate for respondents.

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REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Patiala (in short 'the Tribunal') in regard to death of Balram Rikhi in a motor vehicular accident that took place on 10.06.2010.

The Tribunal by taking into consideration judgment of Hon'ble the Supreme Court in **Bilkish Vs. United India Insurance Co. Ltd., 2008 ACJ 1357** assessed compensation to the tune of Rs.2,50,000/-.

Counsel for the appellants has submitted that the deceased was a matriculate and earning Rs.9,800/- per month by working on a sweets shop of Gurbachan Malhotra, Sweet Corner, Lahori Gate, Patiala as well as part time electrician, therefore, the Tribunal has committed a grave error in restricting the claim to Rs.2,50,000/- by relying upon the aforesaid judgment that pertains to an occurrence of March 1993. It is further submitted that as the deceased was approximately 20 years old as he was born on 02.10.1990 and died on 10.06.2010, compensation is liable to be assessed by ascertaining his income and adopting multiplier method.

Counsel representing the respondents, on the contrary, 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 judgment in **Bilkish's case** (supra), relied upon by the Tribunal pertains to death of one Hazi Mohammad Haneef in a motor vehicular accident on 30.03.1993. Plea of the claimants was that the deceased was studying in first year B.Com. course and also proprietor of a business carried in the name and style of H.S. Traders and had an income of Rs.31,494/- and had paid income tax on that. The Tribunal deducted 50% towards his personal expenses, applied a multiplier of 11 to compute loss of dependency at Rs.1,65,000/-. Hon'ble the Supreme Court in **Bilkish's case** (supra) allowed deduction to the extent of 1/3rd, applied multiplier of 12 and awarded compensation of Rs.2,40,000/- for loss of dependency, in addition to compensation under conventional heads.

The accident in the present case has occurred in the year 2010 after about two decades of the accident in which Hazi Mohammad Haneef passed away. The judgment in the said case, by no stretch of imagination, can be applied for the purpose of assessing compensation in the present circumstances. As the claimants have failed to adduce tangible and satisfactory evidence to prove income of the deceased at Rs.9,800/- per month, income of the deceased is to be assessed by taking into consideration the minimum wages fixed by the State of Punjab and available at the relevant time coupled with the factum that the deceased passed his matriculation examination in March 2007. Accordingly, income of the deceased is assessed at Rs.4,000/- per month. The claimants shall be entitled to addition in income for future prospects to the extent of 50%. The multiplier admissible in the circumstances of the present case, would be 18 in the light of judgments of Hon'ble the Supreme Court in **Smt. Sarla Verma and others versus Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77** and **Munna Lal Jain and others versus Vipin Kumar Sharma and others, 2015(3) RCR (Civil) 447.**

The application for compensation has been filed by the mother and two siblings of the deceased. It appears that father of the deceased was also alive at the time of his death. Under the circumstances, Sonia and Jeewan Rikhi sister and brother of the deceased respectively shall not be entitled to compensation. As the deceased was unmarried son of Nirmala, admissible deduction for personal and living expenses would be 50%. In this manner, loss of dependency comes to Rs.6,48,000/- [Rs.8,64,000/- (Rs.4000/- x 12 x 18) + Rs,4,32,000/- (50% towards future prospects) – Rs.6,48,000/- (50% deduction towards personal expenses)].

Under conventional heads, the claimants shall be entitled to Rs.25,000/- for expenses on funeral/last rites, mother of the deceased is awarded an amount of Rs.50,000/- for loss of love and affection and another sum of Rs.25,000/- is allowed for loss of estate.

In view of the above, total compensation comes to Rs.7,48,000/- and the enhanced compensation is Rs.4,98,000/- (Rs.7,48,000/- - Rs.2,50,000/-), which shall carry interest at the rate of

7.5% per annum from the date of petition till realization, payable to mother of the deceased.

The appeal is partly allowed in the aforesaid terms.

SEPTEMBER 7, 2017 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

Whether speaking/reasoned : yes/no

Whether reportable : yes/no