IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 951 of 2012 (O&M)
Date of decision: 08.09.2017

Smt. Kallo and another .... *Appellants*

Versus

Tahir and others ....*Respondents*

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

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Present: None for the appellants

Mr. Amardeep Hooda, Advocate
for respondent No. 1

Mr. J S Hooda, Advocate
for respondent No. 2

Mr. Lalit Garg, Advocate
for respondent No. 4

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Rekha Mittal, J. (Oral)

The claimants are in appeal seeking enhancement of compensation in regard to death of Javed son of the claimants in a motor vehicular accident that took place on 25.04.2007.

The Tribunal has assessed income of the deceased at Rs.3,600.00, deducted 1/3rd for personal and living expenses and applied split multiplier of 16 to compute loss of dependency to the tune of Rs.3,02,400.00. In addition, Rs.10,000.00 for transportation and last rites has been awarded making total compensation to Rs.3,12,400.00.

Counsel for the respondents particularly the insurance company would submit that adequate compensation has been awarded by the Tribunal.

As per plea of the claimants, the deceased was employed as Cleaner on a Truck owned by Mehmooda at a salary of Rs.3,800.00 per month. The claimants did not examine Mehmooda to prove employment and income of the deceased. The Tribunal by taking into consideration minimum wage of an unskilled worker, assessed income of the deceased at Rs.3,600.00 per month. I do not find any reason to interfere in assessment of income by the Tribunal.

The Tribunal has not allowed 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 the matter with regard to future prospects is pending consideration before a larger Bench of Hon'ble 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 the observations made by the Apex Court in ***Shashikala and others v. Gangalakshmamma and another, 2015 ACJ 1239,*** is not sufficient to deny said benefit till the judgment in Rajesh's case (supra) is varied or set aside. This apart, the deceased was a young boy aged 19 years. There is nothing on record suggestive of the fact that he was suffering from any disability afflicting his capacity to work and earn livelihood for himself and his family. He would not have stagnated at income of Rs.3,600.00 per month, had he remained alive. Under the circumstances, the claimants are entitled to increase in income for future prospects to the extent of 50%.

The Tribunal has applied a cut of 1/3rd for personal and living expenses of the deceased. The application for compensation has been filed by parents of the deceased. In view of enunciation laid down by Hon'ble the

Supreme Court of India ***Sarla Verma and others v. Delhi Transport Corporation and another 2009(3) R.C.R. (Civil) 77,*** and in absence of any exceptional circumstances, admissible deduction would of 50%.

The Tribunal has applied a split multiplier of 16 but the split multiplier cannot be allowed in the circumstances. In this context, reference can be made to judgment of Hon'ble the Supreme Court ***Puttamma and Others vs. K.L. Narayana Reddy and another, AIR 2014 SC 706***. The deceased was 19 years old and as per age of the deceased, appropriate multiplier would be 18 when the case is examined in the light of judgement Sarla Verma's case (supra) and ***Munna Lal Jain and another Vs. Vipin Kumar Sharma and others, (2015) 6 SCC 347.*** In this manner, loss of dependency comes to **Rs.5,83,200.00** (3600x12x18+3,88,800 (50% future prospects) – 5,83,200 (½ deduction).

Under conventional heads, the claimants shall be entitled to Rs.25,000.00 for funeral expenses, Rs.50,000/- for loss of love and affection to mother and Rs.25,000.00 for loss of estate.

In view of the above, total compensation comes to **Rs.6,83,200.00** (5,83,200 + 25,000 + 50,000 + 25,000) and the additional amount is **Rs.3,70,800.0**0 (6,83,200-3,12,400). The additional amount shall carry interest at the rate of 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

08.09.2017
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No