IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO No. 1434 of 2014
Date of decision: 08.08.2017

Bhim Singh through his LRs and another .... *Appellants*

Versus

Devi Dayal and others ....*Respondent*

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

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Present: Mr. Vikas Sharma, Advocate
for the appellants

Mr. Ved Parkash, Advocate
for respondents No. 1 and 2

Mr. Lalit Garg, Advocate
for the insurance company

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Rekha Mittal, J.

The claimants are in appeal seeking enhancement of compensation in regard to death of Satish Kumar in a motor vehicular accident that took place on 25.10.2012.

The learned Tribunal assessed income of the deceased at Rs.6,000.00, deducted 50% towards personal expenses and adopted a multiplier of 6 to compute loss of dependency at Rs.2,16,000.00. In addition, an amount of Rs.50,000.00 on account of treatment/ transportation/cremation and last rites has been awarded making total compensation to the tune of Rs.2,66,000.00 payable with interest at the rate of 9% per annum from the date of petition till realization.

Counsel for the appellant has submitted that as the deceased was about 30 years of old, admissible multiplier is 17 in the light of judgment of Hon'ble the Supreme Court of India in ***Sarla Verma (Smt) and others v. Delhi Transport Corporation and another, 2009(3) R.C.R.(Civil) 77.*** The Tribunal has not awarded any compensation qua future prospects and compensation awarded under conventional heads is inadequate.

Counsel representing the insurance company, on the contrary, has argued that in absence of any cogent and tangible evidence adduced in regard to earning of the deceased, the Tribunal has wrongly assessed income of the deceased at Rs.6,000.00 per month and at the most income of the deceased may be assessed by taking into consideration minimum wage available to an unskilled worker in the State of Haryana in October 2012.

Another submission made by counsel is that benefit of increase in income for future prospects is not admissible as the matter in this regard is pending consideration 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 the observations made by the Apex Court in ***Shashikala and others v. Gangalakshmamma and another, 2015 ACJ 1239.*** Further argued that as parents of the deceased were 60 years old, the Tribunal has rightly applied a multiplier of 6 on the basis of age of parents.

I have heard counsel for the parties and perused the paper book particularly award impugned dated 01.10.2013 passed by the Motor Accidents Claims Tribunal, Jind (in short, 'the Tribunal').

The Tribunal has applied a multiplier of 6 by taking into consideration age of parents of the deceased. However, in the light of enunciation laid down by Hon'ble the Apex Court in *Sarla Verma's* case (supra) and ***Munna Lal Jain and another v. Vipin Kumar Sharma and others (2015) 6 SCC 347***, admissible multiplier would be as per age of the deceased, therefore, multiplier of 17 is to be applied.

As there is dispute qua earning of the deceased, in absence of any documentary evidence, the Court has to rely upon minimum wage fixed by the State of Haryana and available in October 2012, to compute loss of dependency. According to the notification issued by the State of Haryana, the minimum wage for an unskilled worker at the relevant time was Rs.5,000.00 per month.

The mere fact that a reference is pending before a larger Bench of Hon'ble the Supreme Court of India is not sufficient to deny benefit of future prospects till the judgment in ***Rajesh and others versus Rajbir Singh and others 2013 (3) R.C.R. (Civil) 170*** is varied or set aside. 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. By extending benefit of future prospects to the extent 50% and applying a multiplier of 17, loss of dependency comes to **Rs.7,65,000.00** (5,000 x 12 x 17) + 5,10,000 (50% F.P.) - 7,65,000 (50% deduction for personal expenses). The appellants are entitled to Rs.50,000.00 for loss of love and affection to mother. Compensation of Rs.50,000.00 awarded by the Tribunal on account of treatment, transportation, cremation/last rites of the deceased is affirmed. In this manner, total compensation comes to Rs.8,65,000.00 and additional amount is Rs.5,99,000.00 which shall carry interest at the rate of 7.5% per annum from the date of petition till realization exclusively payable to mother of the deceased.

Allowed in the aforesaid terms.

(Rekha Mittal)
Judge

08.08.2017
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No