IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1047-2015 (O&M)
Date of decision: 01.11.2017

Arvinder Kaur and others .... Appellants

Versus

M/s Ghewar Chand Vinod Kumar Jain and others ..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.B.S.Jaswal,Advocate
for the appellants.

Mr. Rajneesh Malhotra, Advocate
for respondent No.3.

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Avneesh Jhingan, J.

Legal heirs of Daljit Singh are in appeal for enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act').

The only issue raised in the present appeal is that the deceased was 35 years of age at the time of the accident. He was driving a truck and his income has been assessed as Rs.5,000/- per month. Aggrieved of this part of the award, the appeal has been filed.

Learned counsel for the appellant contended that at the time of accident, the deceased was driving a truck and holding a valid driving licence which itself establishes that he was a skilled person. He argued that the monthly income assessed by the Tribunal is on the lower side and needs to be enhanced.

Learned counsel for the Insurance Company on the other hand resisted the enhancement and argued that the claimants have miserably failed to substantiate the earning of the deceased. In such circumstances, no enhancement is called for.

The factual matrix of the case necessary for adjudication of the issue referred to above is that on 29.09.2013, there was a motor vehicular accident between truck bearing registration No.PB-32-P-3466 and a truck trailer bearing registration No.RJ-14-GC-5284 (for short, 'the offending vehicle').

There is no dispute by the parties with regard to the rash and negligent driving of the offending vehicle and that as a result of the accident, Daljit Singh sustained injuries and died on the spot.

In the claim petition which was filed by the widow, four minor children and an old mother, the Tribunal assessed the loss of dependency by taking the monthly income as Rs.5,000/- per month thereafter $1/4^{th}$ deduction was made for self expenses and applied the multiplier of 16.

So far as the deduction for self expenses and applying of multiplier is concerned, the same is in consonance with ***Smt. Sarla Verma and others vs. Delhi Transport Corporation and another, (2009) 6 SCC 121,*** wherein it is *observed as under :-*

> *"14. Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra, the general practice is to apply standardized deductions. Having considered several subsequent decisions of this court, we are of the view that where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family*

members is 2 to 3, one-fourth (1/4th) where the number of dependant family members is 4 to 6, and one-fifth (1/5th) where the number of dependant family members exceed six."

15 to 20

x x x x x x

21. We therefore hold that the multiplier to be used should be as mentioned in column (4) of the Table above (prepared by applying Susamma Thomas, Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M-16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years."

A perusal of the above decision shows that the deduction for self expenses depends upon the number of dependents in the family.

So far as the determining the income of the deceased is concerned, in the absence of any proof on record instead of merely relying upon guess work, it would be appropriate that the minimum wages prevalent at that time should be the yardstick.

In the present case, the deceased was holding a valid driving license for heavy motor vehicle and was driving the truck loaded with bananas at the time of the accident which established that he was employed as the driver of the truck. During the relevant period in the State of Haryana, minimum wages for a skilled labourer was Rs.7924/-. The same is rounded up to Rs.7900/- per month. The loss of dependency is recalculated by taking the monthly income as Rs.7900/- per month and applying the deduction for self expenses and multiplier as applied by the Tribunal.

Income	Rs.7900/-
Annual income	Rs. 7900 x12=94,800/-
1/4th deduction for self expenses	Rs.23,700/-
Dependency	Rs.71,100/-
Applying multiplier of 16	Rs.71,100x16=Rs.11,37,600/-

No other issue has been raised.

The award dated 05.09.2014 is modified to the extent that the loss of dependency re-calculated and amount of Rs.8,45,000/- is enhanced to Rs.12,62,600/-.

The claimant shall be entitled to the enhanced loss of dependency along with interest @ 6% per annum from the date of filing the claim petition till the realisation of the amount.

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

01.11.2017
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Note:
1. Whether the order is speaking/reasoned: Yes
2. Whether the order is reportable : Yes