IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2041 of 2014 (O&M)
Date of decision: 11.09.2017

Smt. Kamla and another ...Appellants

Versus

Surendra Prajapati and others ...Respondents

FAO No.4788 of 2014 (O&M)

Smt. Kamla and another ...Appellants

Versus

Surendra Prajapati and others ...Respondents

FAO No.5612 of 2014 (O&M)

Smt. Kamla and another ...Appellants

Versus

Surendra Prajapati and others ...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Narender Kaajla, Advocate for the appellants.

Mr. Sanjeev Kodan, Advocate for respondent No.3.

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REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.2041, 4788 and 5612 of 2014 as these have emerged out of the same award dated 10.12.2013 passed by the Motor Accidents Claims Tribunal, Hisar whereby compensation has been awarded in regard to death of Sandeep Kumar, Shiksha and Reena in a motor vehicular accident that took place on 19.09.2011.

FAO No.2041 of 2014

The learned Tribunal has assessed income of the deceased at Rs.20,758/-, added 50% qua future prospects, deducted Rs.1,000/- towards income tax and 50% for personal expenses of the deceased and assessed annual loss of dependency at Rs.1,80,000/-. By adopting multiplier of 9, loss of dependency has been computed at Rs.16,20,000/-. In addition, an amount of Rs.25,000/- on account of transportation and last rites of the dead body and Rs.1 lakh for loss of love and affection to the mother has been awarded making total compensation to Rs.17,45,000/- payable with interest @ 9% per annum from the date of petition till realization.

Counsel for the appellants has submitted that the Tribunal has wrongly adopted multiplier of 9 by taking into consideration age of parents of the deceased whereas the multiplier should be on the basis of age of the deceased in the light of judgment of Hon'ble the Supreme Court **Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77**. Another submission made by counsel is that compensation allowed under conventional heads needs enhancement.

Counsel for the insurance company has supported the award with the submission that adequate compensation has been awarded by the Tribunal.

Counsel for the claimants has not disputed loss of income per annum for computing loss of dependency. There is no dispute that the deceased was 26 years old at the time of occurrence. In view of the ratio laid down in Sarla Verma's case (supra) and **Munna Lal Jain and anr. vs. Vipin Kumar Sharma and ors., 2015 (3) SCC (Civil) 315,** admissible multiplier in the circumstances of the case would be 17. By adopting a multiplier of 17, loss of dependency comes to Rs.1,80,000 x 17 = 30,60,000/-. Under conventional heads, the appellants shall be entitled to an additional amount of Rs.25,000/- for loss of estate. Amount of Rs.25,000/- on account of transportation and last rites of the dead body and Rs.1 lakh for loss of love and affection awarded by Tribunal are affirmed. The total compensation comes to Rs.32,10,000/- and the additional amount is Rs.14,65,000/-, payable with interest @ 7.5% per annum from the date of petition till realization, exclusively to mother of the deceased.

The appeal is partly allowed in the aforesaid terms.

FAO No.4788 of 2014

The Tribunal has assessed income of deceased Reena at Rs.5,000/- per month, added 50% for future prospects, deducted 50% for personal expenses and applied multiplier of 9 to compute loss of dependency to the tune of Rs.4,05,000/-. In addition, an amount of Rs.25,000/- on account of transportation and last rites has been awarded making total compensation to Rs.4,30,000/-.

Counsel for the appellants would contend that as the deceased was 21 years old, admissible multiplier should be 18. Compensation awarded under conventional heads needs enhancement.

Counsel representing the insurance company has supported the award with the submission that deceased was the daughter-in-law of the claimant and she had her own family to look after.

The Tribunal has assessed income of the deceased at Rs.3750/- per month for computing loss of dependency. The accident in question took place in the month of September, 2011. There is no evidence on record that deceased was gainfully employed having any source of income. Under the circumstances, income of the deceased is to be assessed on the basis of value of services of a house maker. The deceased was the daughter-in-law of the claimants and son of the claimants was working in the Army. Taking into consideration value of services of a house maker coupled with the factum that the deceased ordinarily would have rendered services to her husband and children, loss of dependency to the claimants is assessed at Rs.4500/- per month. Since income of the deceased has been assessed on the basis of value of services as a house maker, no deduction is to be made towards her personal expenses in view of Division Bench judgment of this Court **Paramjit Singh and another Vs. Dilbagh Singh @ Bagga and others, 2013(3) Law Herald 2730**. There is no dispute that the deceased was 21 years old. In view of the ratio laid down in Sarla Verma's case (supra), appropriate multiplier would be 18. In this manner, loss of dependency comes to Rs.4500 x 12 x 18 = 9,72,000/-.

Under conventional heads, an amount of Rs.25,000/- on account of transportation and last rites awarded by the Tribunal is affirmed.

The claimants shall be entitled to another sum of Rs.50,000/- for loss of love and affection. Total compensation comes to Rs.10,47,000/- and the additional amount is Rs.6,17,000/- payable with interest @ 7.5% per annum from the date of petition till realization, to be shared by the claimants equally.

The appeal is partly allowed in the aforesaid terms.

FAO No.5612 of 2014

The Tribunal assessed compensation to the tune of Rs.2,50,000/- in regard to death of Shiksha, a child aged 20 months.

I have gone through Para No.23 of the award pertaining to assessment of compensation qua death of Shiksha and finds no justification for interference in assessment made by the Tribunal. Accordingly, the appeal preferred by the claimants for enhancement of compensation is dismissed.

11.09.2017 **(REKHA MITTAL)**
ashok **JUDGE**

Whether speaking/reasoned: Yes / No

Whether reportable: Yes / No