IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 2277 of 2015 (O&M)
Date of decision: 15.09.2017

Jasmer Singh and others ....*Appellants*

Versus

Dharambir and others ....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr.Arun Sharma, Advocate
for the appellants
Ms Shamsher Kaur, Advocate
for respondent No. 3

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Rekha Mittal, J. (Oral)

The claimants are in appeal seeking enhancement of compensation in regard to death of Ramesh Kumar in a motor vehicular accident that took place on 11.11.2011.

The Tribunal assessed income of the deceased at Rs.4,643/- per month, deducted 50% for personal expenses and applied multiplier of 13 to compute loss of dependency at Rs.3,62,232.00. In addition, Rs.8,000.00 for loss of consortium, Rs.5,000.00 for loss of estate, Rs.5,000.00 for funeral expenses and Rs.3,000.00 for transportation of dead body has been awarded making total compensation to Rs.3,83,232.00, payable with interest at the rate of 7.5% per annum from the date of petition till realization.

Counsel for the appellant has submitted that the deceased was 27 years old, therefore, appropriate multiplier would be 17 in the light of judgment of Hon'ble the Supreme Court ***Sarla Verma and others v. Delhi Transport Corporation and another 2009(3) R.C.R. (Civil) 77*** and ***Munna Lal Jain and another Vs. Vipin Kumar Sharma and others, (2015) 6 SCC***

347. The Tribunal has not allowed benefit of increase in income qua future prospects to the extent of 50% in the light of judgment of Hon'ble the Supreme Court ***Rajesh and others v. Rajbir Singh and others, 2013 (3) R.C.R. (Civil) 170***. Compensation awarded under conventional heads needs enhancement.

Counsel representing the insurance company, on the contrary, has refuted contention of the appellants on the premise that till the matter with regard to future prospects 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 in view of the observations made by the Apex Court in ***Shashikala and others v. Gangalakshmamma and another, 2015 ACJ 1239*** is decided, the appellants are not entitled to increase in income qua future prospects. The Tribunal has rightly allowed multiplier of 13 on the basis of age of parents of the deceased. Another submission made by counsel is that in case the claimants are allowed benefit of increase in income qua future prospects, they are not entitled to interest on the amount representing future prospects.

I have heard counsel for the parties, perused the paper book and the records.

There is no challenge to findings assessing income of the deceased at Rs.4,643.00. The deceased was a young boy and was about 28 years old at the time of occurrence. There is nothing on record suggestive of the fact that he suffered from any disability to impair his capacity to work and earn livelihood for himself and family. It is difficult to accept that the deceased would have stagnated at income of Rs.4,643.00, had he remained alive. The State Governments revise minimum wages at short intervals, may be quarterly or bi-annually. Under the circumstances, the mere fact that a reference is pending before Larger Bench of Hon'ble the Supreme Court of India is not sufficient to deny benefit of increase in income qua future prospects.

The Tribunal has applied multiplier of 13 on the basis of age of parents of the deceased. In the light of enunciation laid down in ***Sarla Verma's*** case (supra) and ***Munna Lal Jain's*** case (supra)***,*** admissible multiplier is 17. In view of the above, loss of dependency is calculated at **Rs.7,10,379.00** (4,643 x 12 x 17 (9,47,172) + 4,73,586 (50% future prospects) – 7,10,379 (50% deduction).

Under conventional heads, claimants shall be entitled to Rs.25,000.00 for expenses on transportation, funeral and last rites and Rs.25,000.oo for loss of estate. The mother of the deceased is awarded Rs.50,000.00 for loss of love and affection. An amount of Rs.8,000.00 for loss of consortium awarded by the Tribunal is ordered to be set aside. Total compensation comes to **Rs.8,10,379.00** (7,10,379 + 25,000 + 50,000 + 25,000) and the additional amount is **Rs.4,27,147.00** (8,10,379.00 – 3,83,232.00) 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.

(Rekha Mittal)
Judge

15.09.2017
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No