

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.4811 of 2013

Date of decision:- January 13, 2017

ARTI

....APPELLANT..

VS.

VIDYA DEVI AND OTHERS

....RESPONDENTS..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Vijay Lath, Advocate,
for the appellant.

Mr. R.C. Gupta, Advocate,
for respondents No. 1 and 2.

Mr. Rajesh Bansal, Advocate,
for respondent No.5.

JASPAL SINGH, J.

Feeling aggrieved against the award dated 24.07.2013, passed by Motor Accident Claims Tribunal, fast Track Court Ropar (for short, "Tribunal") in MACT No.7 of 2013, captioned as "***Vidya Devi and others vs. Randhir Singh and others***" under Section 166 of the Motor Vehicles Act, 1988 (for brevity, "the Act"), whereby the claimants were awarded compensation to the tune of ₹10,80,800/-, on account of death of Padam Singh in a vehicular accident occurred on 08.12.2012 in the Area of Village Kalyanpur, claimant No. 3-Arti wife of deceased has preferred the instant appeal for enhancement thereof.

2. Concededly, the monthly income of the deceased was assessed as ₹6000/- by Id. Tribunal as such the annual income of the deceased comes

to Rs.72,000/-. As the deceased was 25-26 years old at the time of his death, so the deceased has been given 30% future prospect by the Id. Tribunal and that way his annual income came to ₹93600/-. After deduction of 1/3rd of annual income as personal expenses or ₹31,200/- and net annual dependency of the claimants came to ₹62400/-. The multiplier of 17 was applied taking into consideration the age of the deceased to be 26 years at the time of his death. The total dependency was worked out to ₹10,60,800/- (₹62,400x17). In addition to it a sum of ₹20,000/- was awarded on account of loss of consortium, loss of estate and funeral expenses totalling ₹10,80,800/- Thus, it is evident that 30% was paid on account of future prospects and nothing has been awarded on account of loss of love and affection whereas the amount of compensation awarded in lump sum on account of loss of consortium, loss of estate and funeral expenses is unjust and inadequate, especially, in view of the guidelines laid down by Hon'ble Apex Court in case captioned as ***“Smt. Sarla Verma and others vs. Delhi Transport Corporation and another” 2009(3) RCR (Civil) 77*** which has subsequently been approved in case captioned as ***“Rajesh vs. Rajbir 2013 (3) RCR (Civil) 170***. As per the guidelines, the claimants are entitled for compensation on account of future prospects. The deceased was 26 years of age at the time of his death in accident, thus, the claimants are entitled to 50% of the actual income of the deceased instead of 30%. Thus the deceased is entitled to 20% more in addition to the amount already awarded i.e. 93600+14400=108000/-. After deduction of 1/3rd of annual income as personal expenses comes out to ₹36,000/- instead of ₹31200/-. Thus, the net loss of annual dependency of the claimants comes to ₹72,000/-(1,08,000-

36000=72000). After applying multiplier of 17 to the annual dependency, the total dependency comes to ₹12,24,000/-(72000x17=12,24,000). Similarly, the appellants-claimants are also entitled for a sum of ₹25,000/- on account of funeral expenses, loss of love and affection ₹1,00,000/-. Besides it, Smt. Arti, widow of Padam Singh (deceased) is entitled to a sum of ₹1,00,000/- by way of compensation on account of loss of consortium. Thus, the total amount works out to ₹14,49,000/- to which the claimants are entitled on account of death of Padam Singh. Thus, the claimants shall be entitled to enhanced compensation to the tune of ₹3,68,200/- i.e. an amount in addition to the compensation of ₹10,80,800/- already awarded by the Tribunal.

3. The second limb of arguments put forth by learned counsel for the appellant is that while passing of order with regard to apportionment of amount of compensation, ld. Tribunal vide Award dated 24.07.2013 has observed that all the three claimants are entitled to receive the amount of compensation in equal share. In fact, the apportionment so ordered by the ld. Tribunal is not legally justified, especially, keeping in view the age and relationship of the claimants with the deceased. Appellant-Arti is the widow of deceased whereas claimants/respondents No. 1 and 2 are the parents of the deceased Padam Singh. No doubt, it is settled proposition of law that in case, deceased has left behind widow, mother and father, while assessing the compensation to the parents on account of death of their son, lessor multiplier is applicable. So far as, the apportionment of the compensation so awarded is concerned, it would depend on the facts and circumstances of each case.

4. In the case in hand, the deceased-Padam Singh left behind his widow Ms. Arti, father Bachittar Singh and mother-Vidya Devi. The remaining life span of the widow is more than that of a mother or father. Thus, whenever a claim petition for compensation is filed by the parents alone, the lessor multiplier is applicable. It would be justified that the compensation be apportioned between widow and the mother and father of the deceased. 50% to the widow-wife and 50% to the parents i.e. father and mother in equal share. Widow shall be entitled to the extent of 50% whereas remaining 50% shall be shared equally between parents of the deceased.

5. In the light of what has been discussed above, the appeal is partly allowed. Appellants-claimants shall be entitled to enhanced amount of ₹3,68,200/- in addition the compensation already awarded. Appellant-claimant No.1 being the widow shall be entitled to a sum of ₹1,84,100/- out of the enhanced amount whereas remaining amount shall be shared by appellants- claimants /respondents No. 1 and 2 in equal shares. The insurance company-respondent No.5 is directed to pay the amount so enhanced within a period of two months from the date of receipt of certified copy of this order and on its failure to make the payment within stipulated period, it would entail interest @ ₹6% per annum from the date of filing of the clam petition before the Tribunal.

6. Parties to bear their own cost.

January 13, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: Yes/No