IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 4304 of 2014 (O&M)
Date of Decision: July 26, 2017

RAMINDER KAUR AND ANOTHER

..Appellant(s)

Versus

PRABHJOT SINGH SANDHU AND OTHERS

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Saurabh Garg, Advocate
for the appellants.

Ms. Vandana Malhotra, Advocate
for respondent no.3.

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ANITA CHAUDHRY, J.

This is the claimants appeal for enhancement questioning the correctness of the award dated 02.12.2013, passed by the Motor Accident Claims Tribunal, Amritsar.

The necessary and relevant facts are stated hereunder:-

The appellants are the parents of deceased Parminder who was unmarried and stated to be 18 years old. He was a student and was going to attend his tuition class on his motorcycle when a Skoda Laura car driven by respondent no.1 came and hit him. The driver left the spot leaving the car behind. Parminder succumbed to the injuries three days later. Initially the FIR was registered under Section 279, 337, 338 IPC.

The parents filed a petition under Section 163-A of the Motor Vehicle Act claiming compensation pleading that their son was brilliant and would have fared well in life and would have earned Rs.50,000 to Rs.70,000/- per month in the initial years of his service.

The Tribunal referred to a number of judgments and relied upon Jatinder Kumar & another Vs. Oriental Insurance Company Ltd. & another 2010 ACJ 242 wherein the Delhi High Court had allowed Rs.2,25,000/- for death of a three year old child taking the notional income at Rs.15,000/- per month and allowed Rs.75,000/- as non pecuniary damages and Rs.75,000/- towards future prospects and passed an award of Rs.4,20,000/-.

The submission on behalf of the appellants is that in case of ***Krishan Gopal and another Vs. Lala and others 2013 AIR SCW 5037***, the Hon'ble Supreme Court had taken the notional income as Rs.30,000/- and had awarded some amount towards conventional heads and the amount be accordingly increased. It was also submitted that the child was brilliant and was studying in DPS School at Amritsar.

The counsel appearing for the insurance company had urged that the petition had been filed under Section 163-A of the Motor Vehicle Act and the IInd Schedule will have to be followed while applying the multiplier and the income at best could be taken as Rs.3,000/- per month. Reliance was placed upon ***New India Assurance Co. Ltd. Vs. Pankaj Kumar & Ors. In FAO-6164 -2011, decided on 24.04.2015 (P&H), Deepal Girishbhai Soni and Ors. Vs. United India***

Insurance Co. Ltd., Baroda 2004 AIR (SC) 2107 and Bangalore Metropolitan Transport Corporation Vs. Sarojamma and another Civil Appeal No.2897 of 2008 D/d. 22.4.2008 (SCC).

The parents have filed the claim petition under Section 163-A of the Motor Vehicle Act. The judgment referred to by the Tribunal pertains to the death of a child who was just 3 years old. The judgment referred to by the appellant again pertains to death of a 10 year old child. The deceased was 18 years old. There is a cap of annual income as contained in the IInd Schedule appended to the Motor Vehicle Act. The deceased was not earning, therefore, the calculation can be made taking the income at best at Rs.3,300/- per month. Deducting 1/3rd as provided in the IInd Schedule the amount available would be Rs.2,200/- per month and the compensation would be Rs.2,200/- x 12 x 16 = Rs.4,22,400/-. To this a sum of Rs.2,000/- is added as funeral expenses and Rs.2,500/- is added for loss of estate again as provided in the IInd Schedule and the total compensation payable would be Rs.4,26,900/-. The Tribunal had allowed Rs.4,20,000/-, which would be deducted and the remaining amount would be payable with interest @ 6% from the date of filing of the appeal till realization.

The appeal is partly allowed.

July 26, 2017 **(ANITA CHAUDHRY)**
JUDGE

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No