

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.5989 of 2013

Date of decision:- March 08, 2017

MANAV AND ANOTHER

....APPELLANTS..

VS.

SUNIL KUMAR AND OTHERS

...RESPONDENTS..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Naresh Kumar, Advocate for
Mr. R.D. Yadav, Advocate,
for the appellants.

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

JASPAL SINGH, J.

CM-24685-2013

Delay of 8 days in filing the appeal is condoned.

CM stands disposed of.

Main case

Feeling aggrieved against the award dated 16.05.2013, passed by Motor Accident Claims Tribunal, Rewari (for short, "Tribunal") in MACT No.57 of 2010, captioned as "***Manav and another vs. Sunil Kumar @ Sonu 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 ₹6,95,000/-, on account of death of Smt. Kanta Devi in a vehicular accident occurred on 23.02.2010, they have preferred the instant appeal for enhancement thereof.

2. Concededly, the monthly income of the deceased was assessed

as ₹5000/- by Id. Tribunal and the appellants-claimants were granted the compensation to the tune of ₹6,95,000/- after deducting 1/3rd of the expenses which deceased would have incurred towards maintaining herself had she been alive. The annual dependency was worked out to ₹40,000/-. The multiplier of 17 has been applied by Id. Tribunal. The total dependency was worked out to ₹6,80,000/-. A sum of ₹10,000/- has also been awarded on account of transportation and funeral expenses and a sum of ₹5000/- has been awarded on account of loss of consortium, which deserve to be enhanced. Thus, it is evident that nothing has been awarded on account of future prospects and loss of love and affection. Thus, the amount of compensation awarded in lump sum on account of death Smt. Kanta Devi 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.***

3. As per the guidelines, the claimants are also entitled for compensation on account of loss of love and affection, loss of consortium and funeral expenses. Thus, appellants-claimants are entitled for a sum of ₹1,00,000/- on account of loss of love and affection, ₹95,000/- on account of loss of consortium in addition to ₹5000/- already awarded, thus, it comes to ₹1,00,000/- and ₹15,000/- more on account of funeral expenses as ₹10,000/- has already been awarded by Id. Tribunal, totalling ₹25,000/-. Since, the deceased was 25 years of age at the time of her death, thus, multiplier of 18 should have been applied instead of 17. As such, the total

dependency comes to ₹7,20,000/-(40000x18). Thus, the total amount works out to ₹9,45,000/- to which, the claimants are entitled on account of death of Smt. Kanta Devi. As such, the claimants shall be entitled to enhanced compensation to the tune of ₹2,50,000/- i.e. an amount in addition to the compensation of ₹6,95,000/- already awarded by the Tribunal.

4. As far as awarding of compensation on account of future prospect is concerned, the matter in this regard is pending before the larger Bench of the Hon'ble Apex Court and it would not be desirable to award future prospects, especially when the deceased was treated as casual labourer. However, it can be safely concluded that the compensation awarded by the Id. Tribunal is neither just nor adequate.

5. In the light of what has been discussed above, the appeal is partly allowed. Appellants-claimants shall be entitled to enhanced amount of ₹2,50,000/- in addition to the compensation already awarded. Since, there is joint liability to pay the compensation, respondents No. 1 to 3 are 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 @ ₹7% per annum from the date of filing of the clam petition before the Tribunal till its realization.

6. Parties to bear their own cost.

March 08, 2017
sonika

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: Yes/No