IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5454 of 2014
Date of Decision: 09.08.2017

Sarabjit Kaur and others
......Appellants

Vs

M/s Libra Motors and Anr
....Respondents

CORAM: ***HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Mr. R.S. Sihota, Sr. Advocate with
Mr. B.R. Rana, Advocate
for the appellants.

Mr. Akashdeep Singh, Advocate
for respondent No.1.

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RAJ MOHAN SINGH, J.

[1]. The present appeal has been preferred by the claimants for enhancement of the compensation awarded vide order dated 17.12.2013 by the Motor Accident Claims Tribunal, SAS Nagar (Mohali) (hereinafter to be referred as 'the Tribunal') on account of death of Harpreet Singh in a motor vehicular accident.

[2]. Brief facts are that the accident took place on 29.11.2011. It would be relevant to note that the Tribunal has concluded under issue No.1 that the accident in question took

place on account of rash and negligent driving of the offending vehicle by respondent No.2. The deceased was aged about 40 years and 5 months at the time of accident and was a computer engineer doing the private business of computers.

[3]. With reference to the Income Tax Returns showing income to the tune of Rs. 2,20,349/- for the assessment year 2009-2010 (Ex.P-12), Rs. 2,57,341/- for the assessment year 2010-2011 (Ex.P-13 & Ex.P-14), Rs.3,05,009/- for the assessment year 2011-2012 (Ex.P-15 & P-16), the net income of the deceased was assessed to be Rs.30,0173/- per annum after deducting Rs.4836/- as income tax. The loss of future prospects @ 30% was applied to the annual income of the deceased, who was aged 40 years and 5 months at the time of accident. By adding 30% towards future prospects, the total annual income of the deceased was assessed Rs.3,90,224/-. As per ***Sarla Verma vs. Delhi Transportation Corporation, 2009 ACJ 1298 (SC),*** multiplier of 15 was applied and the total amount of compensation was assessed Rs.58,53,360/- to which 1/4th of the amount i.e. Rs.14,63,340/- was deducted towards personal and living expenses of the deceased. In this way, the total amount of compensation was assessed Rs.43,90,020/-.

[4]. In addition to the above, the Tribunal granted an amount of Rs.1,00,000/- towards loss of consortium, amount of

Rs.1,00,000/- towards loss of care and guidance of the minor children and Rs.25,000/- towards funeral expenses. In this way total amount of Rs.46,15,020/- was assessed toward the compensation awarded to the claimants. Apportionment was made in respect of entitlement of each of the claimants and the amount was ordered to be paid along with interest @ 6% per annum from the date of filing of claim petition till final realization of the amount.

[5]. Learned Senior counsel for the appellants by relying upon ratio of ***Vimal Kanwar and others vs. Kishore Dan and others, 2013(2) R.C.R. (Civil) 945***, submitted that the compensation on account of loss of love and affection in favour of mother has not been awarded. Similarly loss of love and affection in favour of widow has not been answered by means of compensation. Loss of care and guidance should have been assessed individually in respect of both the minors, who were aged 9 years and 13 years at the time of death of the accident. Learned Senior counsel also relied upon para no.30 of the aforecited judgment, which reads as under:-

> *"30. Having regard to the facts and evidence on record, we estimate the monthly income of the deceased Sajjan Singh at ₹ 9,000 x 2 = ₹ 18,000/- per month. From this his personal living expenses, which should be 1/3rd, there being three dependents has to be deducted. Thereby,*

the 'actual salary' will come to ₹ 18,000 – ₹ 6,000/- = ₹ 12,000/- per month or ₹ 12,000 x 12 =1,44,000/- per annum. As the deceased was 28 ½ years old at the time of death the multiplier of 17 is applied, which is appropriate to the age of the deceased. The normal compensation would then work out to be ₹ 1,44,000/- x 17 =₹ 24,48,000/- to which we add the usual award for loss of consortium and loss of the estate by providing a conventional sum of ₹ 1,00,000/-; loss of love and affection for the daughter ₹ 2,00,000/- , loss of love and affection for the widow and the mother at ₹ 1,00,000/- each i.e. ₹ 2,00,000/- and funeral expenses of ₹ 25,000/-."

[6]. As against this learned counsel for respondent No.1 submitted that even the multiplier applied in the instant case was on the higher side, but since the appeal filed by the respondent No.1 has already been dismissed, therefore, no such objection can be entertained at this stage, particularly when no cross-objection was filed by respondent No.1 in the present appeal. By referring to the ratio laid down in ***Rajesh and others vs. Rajbir Singh and others, 2013(3) RCR (Civil) 170***, learned counsel stated that the amount towards loss of love and affection has to be covered under the loss of consortium in favour of wife. While awarding compensation towards loss of consortium, the Court has to make an attempt to compensate the loss of the spouse affection, comfort, solace, companionship, society assistance and protection, care and

sexual relations during the future years. Learned counsel also relied upon para No.20 of the aforesaid judgment and contended that no such additional compensation can be awarded in favour of the widow.

[7]. I have considered the submissions by learned counsel for the parties.

[8]. In ***Smt. Neeta w/o Kallappa Kadolkar and others vs. The Divn. Manager, MSRTC, Kolhapur, 2015(1) RCR (Civil) 625***, the Hon'ble Apex by relying upon ***Sarla Verma; Vimal Kanwar and ors***. and ***Rajesh and others***' cases (supra) assessed Rs.1,00,000/- each towards loss of love and affection in favour of the children. An amount of Rs.50,000/- was assessed towards loss of love and affection for the parents. An amount of Rs.1,00,000/- was assessed towards loss of estate and Rs.1,00,000/- was assessed towards loss of consortium.

[9]. By applying the aforesaid principle as laid down in ***Smt. Neeta w/o Kallappa Kadolkar and others*** case (supra), it would be just and appropriate to award Rs.1,00,000/- each towards loss of love and affection in favour of appellant Nos.2 and 3. An amount of Rs.50,000/- each towards loss of love and affection in favour of appellant Nos.4 and 5 and an amount of Rs.1,00,000/- towards loss of estate as the aforesaid amount

has to be separately awarded in addition to the loss of consortium as per the calculations made in the aforecited case. In this way, the additional amount towards loss of love and affection for the children would come out to be Rs.2,00,000/- and amount of Rs.1,00,000/- towards loss of love and affection for the parents and Rs.1,00,000/- towards loss of estate. The total would come out to be Rs.4,00,000/-.

[10]. In view of above, the claimants are held entitled to the amount of Rs.4,00,000/- more in addition to the amount of compensation already awarded by the Tribunal along with interest @ 6% per annum from the date of filing of claim petition till final realization of the amount.

[11]. In view of aforesaid modification, the present appeal stands disposed of.

August 09, 2017 **(RAJ MOHAN SINGH)**
Atik **JUDGE**

Whether speaking/reasoned Yes/No

Whether reportable Yes/No