IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-5711-2014 (O&M)
Date of decision: 28.2.2017

Bashir Ahmed

...Appellant

Versus

Fajrudeen and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.SK Bawa, Advocate for the appellant

Mr.Rajbir Singh, Advocate for respondent No.3

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SNEH PRASHAR, J.

Claimant Bashir Ahmed had filed the present appeal seeking enhancement of the compensation awarded to him by learned Motor Accident Claims Tribunal, Nuh (for short 'the Tribunal') vide award dated 29.11.2013 on account of death of his son Faisal in a motor vehicular accident that took place on 9.6.2012.

The submissions made by Mr.SK Bawa, Advocate representing the appellant and Mr.Rajbir Singh, Advocate for respondent No.3 have been considered and record perused.

Learned counsel for the appellant contended that the deceased was working as a Carpenter at Jaikam Furniture House Tauru Road, Nuh and was earning Rs.6500/- per month. He was a young boy and would have progressed in life increasing his income day by day. However, nothing was allowed by learned Tribunal on account of loss of future prospects and loss of love and affection to the the claimant-appellant, who is the father of the deceased.

On the other hand, learned counsel for respondent No.3-Insurance Company submits that there was no evidence that the claimant-appellant was dependent upon the deceased, yet ignoring the law laid down by Hon'ble Apex Court in **Sarla Verma and others vs. DTC and another 2009 ACJ 1298** learned Tribunal has awarded compensation to the appellant on all counts.

Admittedly, Faisal son of the appellant died due to the injuries suffered by him in a road side accident. As per PMR Ex.PW5/B, the deceased was 18 years old at the time of his death. There was no reliable and substantive evidence with regard to occupation and income of the deceased, yet learned Tribunal assessed his income as Rs.6500/- per month.

In **Sarla Verma and others' case supra**, Hon'ble the Supreme Court has held as under:-

> 15. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent/s and

> siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependent. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependents, because they will either be independent and earning, or married, or be dependant on the father. Thus even if the deceased is survived by parents and siblings, only the mother would be considered to be a dependant, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where family of the bachelor is large and dependant on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third.

In the case in hand, neither the appellant-claimant deposed in his statement nor any evidence was led by him to show that he was dependent on the deceased, who was his son. Rather in his statement, the appellant -claimant admitted that he was working as labourer and was earning Rs.300/- per day. Meaning thereby that he was having independent income and was not a dependent of the deceased. Despite that learned Tribunal assessing the income of the deceased as Rs.6500/- per month and applying the multiplier of 18 has allowed a sum of Rs.7,02000/- on account of loss of dependency and Rs.20,000/- on account of funeral expenses.

If the ratio of **Sarla Verma and others' case (supra)** is applied the appellant claimant being father aged hardly 55 years and earning independently was not a dependent of his deceased son and could have been allowed compensation by applying multiplier method.

Having said the above fact remains that the appellant had lost a young son. Following the law laid down in ***Regional Director, ESI Corpn.*** **v.** ***Ramanuja Match Industries*** **(1985) 1 SCC 218** Hon'ble the Supreme Court in ***Deepal Girishbhai Soni and Ors. vs. United India Insurance Co. Ltd., 2004(2) R.C.R. (Civil) 466*** has observed as under:-

> **53.** Although the Act is a beneficial one and, thus, deserves liberal construction with a view to implementing the legislative intent but it is trite that where such beneficial legislation has a scheme of its own and there is no vagueness or doubt therein, the court would not travel beyond the same and extend the scope of the statute on the pretext of extending the statutory benefit to those who are not covered thereby.

Since, the insurance Company has not chosen to challenge the award, this Court finds no ground to intervene in the findings recorded by learned Tribunal with regard to the fact that the appellant is entitled to compensation or not. In the said circumstances, the question of enhancement by computing future prospects does not arise. The appellant has already been adequately compensated by learned Tribunal in all respect.

In view of the above, the present appeal being devoid of merit is dismissed.

28.2.2017 **(SNEH PRASHAR)**
gsv **JUDGE**

Whether speaking / reasoned? Yes / No

Whether reportable? Yes / No