IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5731of 2014(O&M)
Date of Decision: 12.09.2017

Rajwanti @ Rajo and others ......Appellants

Versus

Ram Mehar and others ... Respondents

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

Present: Mr. S.P. Chahar, Advocate
for the appellants.

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

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RAJ MOHAN SINGH, J.

[1]. This is an appeal filed by the claimants/appellants for enhancement of compensation as awarded by the Motor Accident Claims Tribunal, Jhajjar on 16.04.2013.

[2]. The accident took place on 18.07.2011 at about 3:30 PM near Eicher Tractor Agency, Gurgaon road, Jhajjar when Satbir Singh was returning on motorcycle from Jhajjar to his village Silani. The offending vehicle came from the opposite side in a rash and negligent manner with high speed which was being driven by respondent No.1 and struck against the motorcycle of Satbir Singh. Satbir Singh died at the spot. The occurrence was witnessed by Sukhbir and Shamsher. Sukhbir appeared as PW 2 in the claim petition. FIR was lodged on the

basis of statement of Sukhbir (PW 2) against respondent No.1/driver of the offending vehicle.

[3]. Tribunal while deciding issue No.1 came to the conclusion that the accident in question took place due to rash and negligent driving of respondent No.1. The deceased was 43 years of age and was a retired BSF Constable. At the time of accident, he was carrying his agricultural pursuit. The income of the deceased was assessed to be Rs.4000/- per month by the Tribunal. Keeping in view the age of the deceased to be 43 years, multiplier of 14 was applied and deduction to the tune of $1/4^{th}$ in the monthly income of the deceased was applied keeping in view the composition of the family.

[4]. I have considered the arguments made at the bar.

[5]. As per schedule of wages from 01.07.2011 onwards, an amount of Rs.4643/- per month was payable in case of unskilled labourer, Rs.4773/- per month was payable in case of upper semi skilled labourer, Rs.4903/- per month was payable in case of semi skilled labourer, Rs.5033/- per month was payable in case of lower skilled labourer and Rs.5163/- was payable in case of upper skilled labourer.

[5]. While taking mean of the aforesaid category, I deem it appropriate to assess an amount of Rs.5000/- as monthly income of the deceased i.e. Rs.60,000/- per annum. $1/4^{th}$

deduction can be applied towards personal expenses and therefore, Rs.45,000/- can be assessed as annual income of the deceased for the purpose of calculating dependency of family. Keeping in view the age of the deceased, a multiplier of 14 can be applied in view of ratio laid down in ***Smt. Sarla Verma Vs. Delhi Transport Corporation, 2009 (3) RCR (Civil) 77***, which would bring the calculation to the figure of 6,30,000/- payable to the family towards loss of dependency of the deceased. To the aforesaid amount, an amount of Rs.1,00,000/- can be granted towards loss of consortium in favour of the widow. An amount of Rs.1,00,000/- each in favour of the claimants would suffice to meet out the exigency towards loss of love and affection in view of ratio laid down in ***Smt. Neeta w/o Kallappa Kadolkar and others Vs. The Divn. Manager, MSRTC, Kolhapur, 2015(1) RCR (Civil) 625.*** . The claimants are widow, son aged 19 years, daughter aged 17 years and mother aged 62 years. Since the widow has already been granted an amount of Rs.1,00,000/- towards consortium, therefore, no amount can be assessed towards love and affection in favour of widow. In view of above, an amount of Rs.3,00,000/- can be assessed in favour of claimants No.2 to 4 towards loss of love and affection.

[6]. There is some arithmetic error in the award passed by the Tribunal in terms of calculation of compensation under

different heads, but on re-assessment, this Court finds that an amount of Rs.6,30,000/- is payable towards loss of dependency, an amount of Rs.1,00,000/- towards consortium to claimant No.1 and an amount of Rs.3,00,000/- to claimants No.2 to 4 on account of loss of love and affection to them due to death of Satbir Singh (deceased). An amount of Rs.25,000/- can be assessed towards transportation and funeral expenses. In this way, total compensation would come out to be Rs.10,55,000/- (6,30,000+1,00,000+3,00,000+25,000). An amount of Rs.5,14,000/- can be deducted as awarded by the Tribunal from the aforesaid amount and the difference would come out to be Rs.5,41,000/- (10,55,000-5,14,000).

[7]. The enhanced amount of Rs.5,41,000/- shall be paid by the Insurance Company along with interest @ 7.5% per annum from the date of filing of the claim petition till final realisation of the amount. The findings of the Tribunal with regard to necessary deposits of the amount shall remain in force proportionately as ordered by the Tribunal in respect of award of compensation.

[8]. Disposed of.

(RAJ MOHAN SINGH)
12.09.2017 **JUDGE**
prince
Whether Reasoned/Speaking Yes/No

Whether Reportable Yes/No