IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM-20203-CII-2014 in/and
FAO No.7549 of 2014
Date of decision:- January 12, 2017

SMT. DHARSHNA AND OTHERS ....APPELLANTS..

VS.

MAKHAN SINGH AND OTHERS ....RESPONDENTS..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. R.K. Saini, Advocate for the appellants.

Mr. Amrinder S. Sidhu, Advocate for respondent No.4.

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JASPAL SINGH, J.

CM-20203-CII-2014

For the reasons mentioned in the application, delay of 92 days in filing the appeal is condoned.

CM stands disposed of.

FAO-7549-2014

Feeling aggrieved against the award dated 16.01.2014, passed by Motor Accident Claims Tribunal, Bhiwani (for short, "Tribunal") in MACT No.74 of 2012, captioned as ***"Smt. Dharshna and others vs. Makhan Singh 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 ₹7,68,800/-, on account of death of Ramesh in a vehicular accident occurred on 20.04.2012 at 8:00/8:15 p.m. ahead of village Kheradi, they have preferred the instant appeal for enhancement thereof.

2. Concededly, the monthly income of the deceased was assessed as ₹5200/- per month by ld. Tribunal and the appellants-claimants were granted the compensation to the tune of ₹7,68,800/- after deducting 1/4th of the expenses which deceased would have incurred towards maintaining himself had he been alive. The annual dependency was worked out to ₹46,800/- per annum (₹3900x12). The multiplier of 16 was applied taking into consideration the age of the deceased to be 32 years at the time of his death. In addition to it, a sum of ₹20,000/- was awarded on account of loss of consortium, loss of estate and funeral expenses totalling ₹7,68,800/- Thus, it is evident that no amount of compensation was paid on account of future prospects and loss of love and affection whereas an amount of Rs.20,000/- has been awarded in lump sum on account of loss of consortium, loss of estate and funeral expenses, which cannot be termed as just and adequate, 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***. As per the guidelines, the claimants are entitled for compensation on account of future prospects. In view of the age of the deceased i.e. 32 years, 50% of the income i.e. ₹2600/- is to be added as future prospects, thus, it comes to ₹7800/- (5200+2600). After deducting 1/4th i.e. ₹1950 as personal expenses, the dependency of the claimants comes to ₹5850/- per month. As the age of the deceased was 32 years, multiplier of 16 is to be applied. The total amount of compensation on account of loss of income comes to ₹11,23,200/- (5850x12x16). Similarly, the appellants-claimants are also entitled for a sum of ₹25,000/- on account

of funeral expenses in addition to a sum of ₹20,000/- which has already been awarded on account of loss of estate. Apart from it, the claimants are also entitled to a sum of ₹1,00,000/-on account of loss of love and affection. Besides it, Smt. Dharshna, widow of Ramesh (deceased) is entitled to a sum of ₹1,00,000/- by way of compensation on account of loss of consortium. Thus, the total amount works out to ₹13,48,200/- to which, the claimants are entitled on account of death of Ramesh. Thus, the claimants shall be entitled to enhanced compensation to the tune of ₹5,79,400/- i.e. an amount in addition to the compensation of ₹7,68,800/- already awarded by the Tribunal.

3. In the light of what has been discussed above, the appeal is partly allowed. Appellants-claimants shall be entitled to enhanced amount of ₹5,79,400/- in addition to the compensation already awarded. Appellant-claimant No.1 being the widow shall be entitled to a sum of ₹3,00,000/- out of the enhanced amount whereas remaining amount shall be equally shared by appellants- claimants No. 2 to 4. The insurance company-respondent No.4 is 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 @ ₹6% per annum from the date of filing of the clam petition before the Tribunal till realization.

4. Parties to bear their own cost.

January 12, 2017 **(JASPAL SINGH)**
sonika **JUDGE**

Whether speaking/reasoned: Yes

Whether reportable: Yes/No