IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 6199 of 2015 (O&M)
Date of Decision:- 11.12.2017

Birmati & Anr. ....Appellants

Versus

Om Parkash & Ors. ...Respondents

CORAM: HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present: Mr. Arun Yadav, Advocate, for the appellants.

Mr. D.R Singla, DAG, Haryana.

Mr. Rajesh K. Sharma, Advocate, for respondent No.3.

AVNEESH JHINGAN, J. (Oral)

Present appeal has been filed against award dated 11.02.2015 passed by Motor Accident Claims Tribunal, Rewari (for short, 'the Tribunal').

The issue involved in the present appeal is loss of dependency to be awarded in case of death of a 17 years old boy who was ITI student.

The grievance in present appeal is that a lump sum amount has been awarded for compensation and multiplier method had not been adopted.

The contention of learned counsel for the insurance company is that the deceased was only a student and was not earning anything. In such circumstances, the lump sum amount has rightly been assessed.

The bare facts necessary for adjudication of the present appeal are that Arun Kumar, aged 17 years 09 months died in a motor vehicular accident, which occurred on 04.09.2013. Arun Kumar was going on his foot when a rashly and negligently driven bus bearing registration No. HR-47-B-9568 ran over him. He was taken to Trauma Centre, Rewari, but on his way he lost his life. FIR No. 409 dated 04.09.2013 was registered at Police Station Model Town, Rewari.

Amount of Rs.6 lakhs in lump sum was awarded along with interest @7% per annum by the Tribunal in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act').

In the present litigation there is no dispute raised by parties with regard to involvement of the offending vehicle, rash and negligent driving of the offending vehicle, age of the deceased and on the fact that the deceased was ITI student.

The law regarding computation of loss of dependency has been settled by the Hon'ble Apex Court over the period of time. The most reliable method evolved is by applying the multiplier method. This method takes care of the age of the deceased, earning of the deceased and accordingly the multiplier is applied.

Hon'ble Apex Court in ***Lata Wadhwa Vs. State of Bihar, 2001(8) SCC 197*** has held that multiplier method should be applied for computing income.

Hon'ble Apex Court in ***Sarla Verma Vs. Delhi Transport Corporation, 2009 (6) SCC 121*** , had given tables regarding multiplier to be applied which is related to the age of deceased. Further table had been provided for deducting self-expenses which is related to the marital status of the deceased and the number of dependants survived by the deceased. It would be important to mention here that **Sarla Verma's case** (supra) has been affirmed the Hon'ble Apex Court in its latest decision in ***National Insurance Co. Ltd. Vs. Parney Sethi, SLP (Civil) 25590 of 2014,*** decided on 31.10.2017

In the National Insurance's case (supra) it has been held that where a person was self-employed or having fixed salary, future prospects should be awarded. For a deceased who was below 40 years, 40% future prospects have to be awarded.

In the present case since earning of the deceased was not established, safest yard-stick would be to rely upon the minimum wages prevalent at the time of the accident. It has not been disputed that he was a ITI student, as such in the facts of the present case, minimum wages of a skilled labour would be considered for calculating the loss of dependency. At that time minimum wages for a skilled labourer was Rs.5730/-.

The Hon'ble Apex Court in case of ***Hem Raj Vs. Oriental Insurance Company Ltd, in Civil Appal No. 19603 of 2017, decided on 22.11.2017,*** has held that even where earning is assessed by relying upon the minimum wages, future prospects are to be awarded.

In the National Insurance's case (supra) the Hon'ble Supreme Court has held that Rs.15,000/- is to be awarded for funeral expenses and Rs.15,000/- for loss of estate.

Keeping in view the above discussion and the case law, the loss of dependency is recalculated as under:-

Income Assessed	=	Rs.5730/-
1/2 deductions for self expenses	=	Rs.2865/-
Multiplier 18 applied	=	Rs.2865 x 18 x 12
Total	=	Rs. 6,18,840/-
40% Future Prospects	=	Rs. 2,47,536
Funeral expenses	=	Rs.15,000/-
Loss of estate	=	Rs.15,000/-
Total	=	Rs. 8,96,376/-

The award dated 11.02.2015 is modified to the extent that the amount awarded of Rs.6,00,000/-awarded by the Tribunal is enhanced to Rs. 8,96,376/-.

The claimants would be entitled to the enhanced amount along with interest @6% per annum from the date of filing of the claim petition till realisation.

The appeal is partly allowed in the aforesaid terms.

December 11, 2017 **(AVNEESH JHINGAN)**
tripti **JUDGE**

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No