IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 7921 of 2014
Date of decision: 29.08.2017

Kuldeep Kaur and others .... *Appellants*

Versus

PAPSU Road Transport Corporation and others ....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Ashok Bhardwaj, Advocate
for the appellants
Mr. Aman Sharma, Advocate
for respondent No. 1
Mr. Vinod Gupta, Advocate
for respondent No. 4

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Rekha Mittal, J. (Oral)

The claimants are in appeal seeking enhancement of compensation in regard to death of Jagjit Singh in a motor vehicular accident that took place on 17.01.2013.

The deceased was working as Assistant Lineman in PSPCL, Sub Division, Balbera/Division, Sub Urban, Patiala at the relevant time. The compensation assessed by the Tribunal is as follows:-

Sr. No.	Heads	Calculation
1.	Income assessed	25,732
2.	1/3rd of (1) as personal expenses of the deceased	25,732-8587=17155.00
3.	Compensation after multiplier of 11 is applied	17155x12x11= 22,64,460.00
4.	Consortium	1,00,000.00
5.	Funeral expenses	25,000.00
6.	Total (4) & (5)	22,64,460 + 1,00,000 + 25,000 = **23,89,460.00**

Counsel for the appellants has submitted that the Tribunal has wrongly assessed income of the deceased at Rs.25,734/- per month in place of his salary at Rs.33,733.00 out of which an amount of Rs.8,000.00 was being deducted towards General Provident Fund. It has further been argued that the Tribunal has not allowed benefit of increase in income for future prospects in the light of judgment of Hon'ble the Supreme Court of India ***Rajesh and others v. Rajbir Singh and others, 2013 (3) R.C.R. (Civil) 170.*** Another submission made by counsel is that compensation awarded under conventional heads needs re-look and enhancement.

Counsel representing the respondents has supported the award with the submissions that adequate compensation has been awarded by the Tribunal.

I have heard counsel for the parties and perused the paper book particularly the award impugned.

The learned Tribunal assessed loss of dependency on the basis of net pay of Rs.25,734.00 per month paid to the deceased after making deduction of Rs.8,000.00 towards GPF. The Tribunal has committed a serious error rather illegality by ignoring amount of GPF for assessing loss of dependency. As such, entire salary of the deceased is to be taken into consideration for the said purpose.

The Tribunal has rightly applied a cut of 1/3rd for personal expenses and multiplier of 11 to compute loss of dependency.

So far as the plea of the appellants for grant of benefit of increase in income for future prospects is concerned, the said benefit is not admissible in the light of judgment of Hon'ble the Supreme Court ***Sarla Verma (Smt) and others v. Delhi Transport Corporation and another, 2009 (3) R.C.R. (Civil) 77.*** In *Rajesh's* case (supra), Hon'ble the Apex

Court did not deal with the question of allowing benefit of future prospects in case the deceased happens to be a regular employee of the State/Public Sector Undertaking. As such, the appellants cannot derive any advantage to their contention from the judgment in *Rajesh's* case (supra) to press for increase in income qua future prospects. In the given circumstances, loss of dependency comes to Rs.28,14,000, tabulated in the following manner:-

Particulars	Amount
Annual dependency 33,733x12	4,04,796.00
Income Tax payable	21,095.00
After deducting tax liability, annual dependency	3,83,701.00
Multiplied by 11	3,83,701x11 = 42,20,711
1/3rd deductions	14,06,904 but actually deducted 14,06,711
Total	42,20,711-14,06,711=**28,14,000.00**

Under conventional heads, Compensation awarded by the Tribunal for loss of consortium to widow at Rs.1,00,000.00 and for funeral expenses at Rs.25,000.00 is affirmed. For loss of love and affection, an amount of Rs.50,000.00 to son, Rs.50,000.00 to mother of the deceased and Rs.25,000.00 for loss of estate is awarded. In this manner, total compensation comes to **Rs.30,64,000.00** (28,14,000.00 + 1,00,000 + 25,000 + 50,000 + 50,000 + 25,000) and additional amount is **Rs.6,74,540.00** (30,64,000-23,89,460) which shall carry interest at the rate of 7.5% per annum, payable exclusively to widow except compensation awarded in favour of son and mother for loss of love and affection.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

29.08.2017
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No

The amount falling to share of children shall be deposited in Fixed Deposit Receipts for a period of three years or till they attain the age of majority, whichever is later. However, the interest on FDRs shall be payable to their mother for meeting expenses of the children. The other terms and conditions of the award shall remain the same.

The appeal is partly allowed in the aforesaid terms.