IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.8471 of 2014(O&M)

Date of decision: 27.7.2017

Jaswinder Kaur …..Appellant

VERSUS

Gopal Krishan Sharma and others .....Respondents

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CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Rahul Sharma, Advocate for the appellant.

Mr. Vishwajit Singh, Advocate for respondent No.1.

Mr. Aakash Dalal, Advocate for
Ms. Monisha Beniwal, Advocate and
Mr. Ankur Gupta, Advocate for respondent No.3.

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REKHA MITTAL, J. (Oral)

The claimant is in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Ludhiana (in short 'the Tribunal') in regard to death of Shamsher Singh @ Shammi in a motor vehicular accident that took place on 06.03.2010.

The Tribunal assessed income of the deceased at Rs.4,000/- per month, deducted 50% towards personal expenses, adopted a multiplier of 14 to compute loss of dependency to the tune of Rs.3,36,000/-. In addition, an amount of Rs.6,000/- for expenses on funeral was awarded making total compensation to Rs.3,42,000/-. As the deceased was attributed negligence to the extent of 20%, 80% of compensation was held to be payable to the claimant/appellant.

Counsel for the appellant would submit that the Tribunal has not allowed benefit of increase in income for future prospects to the extent of 50% as the deceased was less than 25 years of age. The multiplier admissible in the circumstances of the present case is 18 and not 14. For this purpose, he has referred to judgment of Hon'ble the Supreme Court of India **Munna Lal Jain and others versus Vipin Kumar Sharma and others, 2015(3) RCR (Civil) 447**. It is further submitted that compensation awarded under conventional heads needs to be enhanced. Another submission made by counsel is that deduction for personal expenses should have been 1/3rd in place of 50%. For this purpose, counsel has referred to para 15 of the judgment of Hon'ble the Supreme Court **Smt. Sarla Verma and others versus Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77**.

Counsel representing the insurance company has supported the award with the submission that adequate compensation has been awarded. It is further argued that as the matter with regard to grant of future prospects is pending consideration before a Larger Bench of Hon'ble the Supreme Court of India in view of reference made in **National Insurance Company Ltd. vs. Pushpa, SLP (C) No.16735 of 2014, decided on 02.07.2014,** the appellant is not entitled to increase in income for future prospects. In the alternative, it is argued that in case any benefit of future prospects is allowed by the Court, amount representing increase in income for future prospects may be released to the claimant subject to furnishing of adequate security. According to counsel, the Tribunal has rightly applied a multiplier of 14 in view of age of the claimant (widowed mother of the deceased).

I have heard counsel for the parties, perused the paper-book particularly the award passed by the Tribunal.

The deceased was a young boy less than 25 years of age. The Tribunal has assessed his income at Rs.4,000/- per month, in the light of minimum wage fixed by the State of Punjab and available in March 2010, income of the deceased is assessed at Rs.4,200/- per month. The mere fact that the matter with regard to grant of future prospects is pending consideration before a Larger Bench is not sufficient to deny benefit of increase in income for future prospects till the judgment in **Rajesh and others Vs. Rajbir Singh and others, 2013 (3) RCR (Civil) 170** is varied or reversed. For this reason, contention by counsel for the insurer to release the amount of future prospects subject to security is not tenable.

So far as the plea of the claimants with regard to deduction to the extent of 50%, the said plea is totally misconceived and liable to be rejected. There is a single claimant who has staked her claim for compensation. Under the circumstances, any observations made by Hon'ble the Supreme Court of India in concluding lines of para 15 in **Smt. Sarla Verma's case** (supra) are not attracted in the given circumstances.

The Tribunal has adopted a multiplier of 14 by taking into consideration age of the claimant. Keeping in view the authoritative enunciation of law laid down in **Smt. Sarla Verma's case** (supra) and the judgment in **Munna Lal Jain's case** (supra) appropriate multiplier would be 18 in place of 14. After extending benefit of future prospects to the extent of 50% and adopting a multiplier of 18, compensation for loss of dependency comes to Rs.6,80,400/-[Rs.9,07,200/- (Rs.4,200 x 12 x 18) + Rs.4,53,600/- (50% future prospects) – Rs.6,80,400/- (50% deduction towards personal expenses)].

Under conventional heads, an amount of Rs.6,000/- has been awarded by the Tribunal for expenditure on funeral expenses. In the light of judgment in **Rajesh and others case** (supra), the appellant is awarded an amount of Rs.25,000/- for expenses on funeral. The appellant is awarded an amount of Rs.50,000/- for loss of love and affection and Rs.25,000/- for loss of estate.

In view of the above, total compensation comes to Rs.7,80,400/- and the enhanced compensation is Rs.4,38,400/- (Rs.7,80,400/- - Rs.3,42,000/-). The appellant shall be entitled to 80% of the enhanced amount of compensation assessed by this Court as there is no challenge to the findings of the Tribunal with regard to contributory negligence attributable to the deceased himself. The enhanced compensation shall carry interest at the rate of 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

JULY 27, 2017 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

Whether speaking/reasoned : yes/no

Whether reportable : yes/no