

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

FAO No.8598 of 2015
Date of Decision.24.10.2017

Jasmer Singh and othersAppellants

Vs

Sanjay and othersRespondents

2. **FAO No.907 of 2016**

Shakuntla Devi and othersAppellants

Vs

Sanjay and othersRespondents

Present: Mr. Surinder Gandhi, Advocate
for the appellants in FAO No.8598 of 2015.

None for the appellant in FAO No.907 of 2016.

Mr. Vinod Gupta, Advocate
for the insurance company.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

This order of mine shall dispose of two appeals bearing Nos.8598 of 2015 and 907 of 2016 arising out of the same accident. The former is for enhancement of compensation for death of a boy aged 19 years namely Arvind and the latter is for enhancement of compensation for death of a boy aged 19 years namely Aman. Both died in a motor vehicular accident occurred on 20.10.2013. They were going to Neki Ram College ground for football match on a motor cycle bearing registration No.HR-12S-2893 when a truck bearing registration No.HR-61A-4849 driven rashly and negligently by respondent No.1 hit against their motor cycle, as a result of which both of them fell down and the aforementioned truck ran over them.

Both died on the spot. The claimants in both the cases are parents and

siblings.

The Tribunal while assessing the compensation took the income of the deceased in the case of deceased-Arvind as ₹7000/- per month, made a 50% deduction towards personal expenses and applied a multiplier of 14 to assess the compensation of ₹7,23,000/- which included ₹25,000/- as funeral expenses, ₹10,000/- as transport charges and ₹1,00,000/- for loss of love and affection. In the case of deceased-Aman, though the Tribunal took the income as ₹8000/- per month but after making a deduction of 50%, applied the multiplicand on ₹3500/- which is apparently a clerical error. The figure should have been ₹7000/- instead of ₹8000/-. It applied the same multiplier of 14 and added ₹25,000/- as funeral expenses, ₹10,000/- as transport charges and ₹1 lac on account of loss of love and affection for determining a compensation of ₹7,23,000/-. It also awarded interest @7.5% per annum from the date of filing of the claim petition till realization on the aforementioned amounts in both cases.

Mr. Gandhi, learned counsel appearing on behalf of the appellants in FAO No.8598 of 2015 submits that the Tribunal adopted a multiplier of 14 whereas it should have been 18 in case of death of a boy aged 19 years. The Tribunal had not taken into consideration the increase of future prospect, therefore, the award passed by the Tribunal is required to be modified. Similar are the arguments in FAO No.907 of 2016.

Mr. Gupta, learned counsel appearing on behalf of the insurance company submits that the Tribunal has taken care all the heads of claim. Moreover, the income taken by the Tribunal is on higher side, thus, urges this Court for dismissal of the appeals by upholding the awards passed by the Tribunal.

I have heard learned counsel for the parties and appraised the paper book. I will retain the income of the deceased as taken by the Tribunal i.e. Rs.7000/- per month in both the cases. However, I will adopt a multiplier of 18 in case of death of both the boys who were 19 and 16 years of age at the time of accident, in view of the ratio decidendi culled out by Hon'ble Supreme Court in **Reshma Kumari Vs. Madan Mohan (2013) 9 SCC 65** wherein it has been held that upto the age of 15, the multiplier of 15 shall be adopted and for the age group of 15 to 25, the multiplier shall be 18. I will retain the conventional heads of claim i.e. loss of love and affection, loss of estate/transport charges and funeral expenses as has already been assessed by the Tribunal.

However, as regards the increase in income as future prospects, the Hon'ble Supreme Court in the ratio decidendi culled out in the judgment rendered in **Chikkamma and another Vs. Parvathama and another** passed in Civil Appeal No.3409 of 2017 decided on 28.02.2017 has refused to grant claim for future prospects with regard to self employed person, owing to the fact that the issue with regard to award of future prospects of a self-employed person is pending before a larger Bench of Hon'ble Supreme Court. The relevant paragraph 9 of the same reads as under:-

“9. Taking into account the fact that the deceased was a self employed person and also as the question with regard to award of future prospects of a self employed person is presently pending before a larger Bench of this Court and as some enhancement of compensation has already been made by us, we are of the view that in the facts of the present case, the claim for future prospects ought not to be gone into by us. The said claim, therefore, is refused.

In view of the ratio decidendi culled out by Hon'ble Supreme

Court in *Chikkama's case* (supra), I will constrain myself to award any amount for future prospects at this stage, for, the aforementioned issue is pending adjudication before the larger Bench of Hon'ble Supreme Court.

In sum, the appellants shall be entitled to a sum of ₹8,91,000/- in both the cases. The amount in excess over what has already been provided by the Tribunal shall also attract interest @6% from the date of filing of appeal till realization. The enhanced amount shall be distributed equally between appellant Nos.2 to 4 in FAO No.8598 of 2015 and in FAO No.907 of 2016 the entire enhanced amount shall be paid to the appellant-Shakuntla Devi. The liability shall remain the same as has already been assessed by the Tribunal.

The awards passed by the Tribunal are modified and the appeals are allowed to the above extent.

(AMIT RAWAL)
JUDGE

October 24, 2017

Pankaj*

Whether reasoned/speaking Yes

Whether reportable No