IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

457

Date of Decision : 14.09.2018

XOBJR-9-CII-2001 in
FAO No. 2132 of 2000 (O&M)

State of Haryana and another
...... Appellants

Versus

Smt. Prem Lata and others
...... Respondents

FAO No. 4107 of 2001 (O&M)

Radha Ram Jain and others
...... Appellants

Versus

State of Haryana and others
...... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI
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Present : Mr. Pawan Kumar Jangra, Addl. A.G., Haryana
for the appellant (FAO-2132-2000)
for the respondent No.1 (FAO-4107-2001).

Mr. Vinod Gupta, Advocate
for the applicant-cross objector/respondents No.1 to 4
(FAO-2132-2000) and
for the appellants (FAO-4107-2001).

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AJAY TEWARI, J. (Oral)

This order shall dispose of above mentioned cross objection and appeal.

XOBJR-9-CII-2001 in FAO No. 2132 of 2000

This Cross objection has been filed against the award dated 10.05.2000 passed by the Motor Accident Claims Tribunal, Hisar Camp at Fatehabad whereby compensation has been awarded to the claimants, who are the legal heirs of the deceased-Ashish Kumar who died on 21.01.1999.

Learned counsel for the applicants-cross objector has argued that the net income was taken at Rs.10,000/- but future prospects of 40% had to be granted in view of the judgment of the Supreme Court in the matter of ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009.*** Learned Additional A.G. states that since the deceased was unmarried deduction had to be 50% and not 60%. Both the points are well taken. It is directed that on the income of Rs.10,000/- there will be deduction of 50% and there would also be future prospects of 40%.

Further learned counsel for the applicant-cross objector points out that at the age of 20 the multiplier had to be 18 in view of the judgment of the Supreme Court in the matter of ***Sarla Verma and others v. Delhi Transport Corporation and another, 2009 ACJ 1298***. Learned Additional A.G. is not in a position to deny this. Consequently, I hold that multiplier of 18 has to be awarded. Learned counsel for the applicants-cross objectors has stated that under the conventional heads nothing has been granted and cited the judgment of the Supreme Court passed in the matter of ***Sureshchandra BagmalDoshi and Anr. vs. New***

India Assurance Company Limited and others reported as ***2018 (2) RCR (Civil) 841*** where the widow daughter had died and the Supreme Court held as follows :-

> "*14. Now coming to the last aspect, i.e., the conventional heads, in National Insurance Company Limited(supra), it has been standardized at Rs.15,000 for loss of estate; Rs.40,000 towards loss of consortium (in the present case loss of love and affection) and Rs.15,000 towards funeral expenses. The total amount, thus, would be Rs.70,000, which as per the said judgment is capable of being enhanced @ 10 per cent in the span of every three years. However, we are still within the window of three years.*"

Having gone through the judgment, I find that their Lordships has considered the Constitution Bench judgment of the Supreme Court in the matter of ***Pranay Sethi's case supra.*** Consequently, I grant a sum of Rs.70,000/- under the conventional heads.

FAO No.4107 of 2001

This is an appeal for enhancement of compensation and for modifying the award dated 10.05.2000 passed by the Motor Accident Claims Tribunal, Fatehabad granting compensation of Rs.5,84,000/- and interest @ 12% per annum in favour of the appellants and against the respondents.

This appeal had arisen on account of death of Usha Rani in the accident. At the time of accident the deceased was stated to be aged about 42 years and besides being partner in Vinayak Wine was also looking after accounts in Balaji Wine and thus earning Rs.1,79,000/- per annum, in addition to the services rendered to the family by looking after house hold affairs.

Counsel for the appellants has argued that the tribunal had erred in assessing the monthly income of the deceased of Rs.4,000/- per month and had applied the multiplier of 10.

Learned counsel for the appellants has argued that for the year 1997-1998, the deceased was earning Rs.4,000/- per month as salary. He has argued that her contribution towards her home has not been considered. He has relied upon a judgment of this Court passed in ***FAO No.218 of 2014, United India Insurance Co. Ltd v. Sube Singh and others,*** *decided on 15.01.2014, wherein* this Court held as follows :-

> *" Learned counsel for the appellant has argued that even while noticing that the income of a skilled worker in 2012 was approximately ₹ 8000/-, the Tribunal has wrongly assessed the income of the deceased as ₹ 9,000/-. As per him once the notional income had been taken, a deduction had to be made for personal expenses. This argument is flawed. In* ***Lata Wadhwa and others v. State of Bihar and others****, reported as 2001(4) RCR (Civil) 673 (where the accident had taken place in 1981) the Hon'ble Supreme Court evaluated the contribution of a house wife at ₹ 3000/- per month. The accident in the present case took place after 23 years. In my considered opinion to tag a house wife as a `skilled worker' alone does not do complete justice to her multifarious role as a home manager. Keeping in view the lapse of 23 years between the accident in the case of Lata Wadhwa and the present accident and my conclusion that a house wife is something more than a mere skilled worker it would not be unreasonable to estimate the contribution of the deceased in the present case at a higher figure. On the whole I see no reason for reducing the quantum."*

In the circumstances, the income is taken at Rs.2,000/- per month as a home maker and would not be entitled to future prospects or any deduction as held in ***FAO No.1492 of 2018 titled as Ram Mehar and others Vs. Bhupinder and others decided on 29.08.2018***. But on the income of Rs.4,000/- there would be future prospects of 25% and considering that there were 6 dependents the deduction would be $1/4^{th}$.

As per the judgment of the Supreme Court passed in ***Sarla Verma's case supra,*** the multiplier should be 14. Further nothing has been awarded under conventional heads and as per the judgment passed in ***Pranay Sethi's case Supra and Sureshchandra Bagmal Doshi's case supra,*** consolidated amount of Rs.70,000/- has to be given under conventional heads. Ordered accordingly.

In both cases, interest on the enhanced amount would be @7.5% p.a. The entire amount considering the fact that the death had took place almost 20 years ago, the entire amount would come in the first case to the mother-Smt. Prem Lata in XOBJR-9-CII-2001 and in the second case to the share of husband-Radha Ram Jain in FAO No.4107-2001.

XOBJR and appeals are allowed in the above terms and the award is modified accordingly.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

14.09.2018
pooja sharma-I

Whether speaking/reasoned - Yes/No
Whether reportable - Yes/No