IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4289 of 2014 (O&M)
Date of decision: 08.01.2018

PARAMJIT KAUR AND ORS ...Appellants

Versus

JASVIR SINGH AND ORS ...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Vivek Suri, Advocate
for the appellants.

Mr. A.P. Kaushal, Advocate
for respondent No.1.

Mr. Ankit Aggarwal, Advocate for
Mr. Anupam Singla, Advocate
for respondent No.2.

Mr. Satpal Dhamija, Advocate
for respondent No.3.

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<u>REKHA MITTAL, J. (Oral)</u>

The claimants are in appeal seeking enhancement of compensation in regard to death of Hardev Singh in a motor vehicular accident that took place on 23.07.2011.

The Tribunal has awarded compensation to the tune of Rs.5,25,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.5000/-
2. Multiplier	10

3. Deduction for personal expenses	1/3rd
4. Loss of dependency	Rs.4,00,000/- (40,000 x 10)
5. Expenses on funeral	Rs.25,000/-
6. Loss of consortium	Rs.1,00,000/-

Counsel for the appellants would urge that the Tribunal has not allowed benefit of increase in income for future prospects to the extent of 25%. The admissible multiplier in the given circumstances would be 13 in place of 10. As the deceased left behind his widow and four minor children, deduction for personal expenses should be 1/4th in the light of judgment of Hon'ble the Supreme Court **Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77**.

Counsel representing the insurance company has refuted contention of the claimants for enhancement of compensation with the submission that adequate compensation has been assessed. It is argued that the Tribunal has wrongly assessed income of the deceased at Rs.5,000/- per month as against the minimum wage of approximately Rs.4,000/- per month available at the relevant time.

I have heard counsel for the parties, perused the paper book particularly award dated 18.7.2013.

The Tribunal in para 17 of the award has noticed that it has been established that deceased was hawker and used to sell items in the buses at Bus Stand, Patiala. The claimants placed on record receipts Ex.P1 to P6 as an evidence of his being vendor at Bus Stand, Patiala. The Tribunal by relying upon judgment of Hon'ble the Supreme Court **Uttaranchal Transport Corporation Ltd. Vs. Vimla Devi and otehrs, 2009 ACJ 1257** has assessed income of the deceased at Rs.5,000/- per month.

There is no challenge to findings of the Tribunal that the deceased was selling items in the buses at Bus Stand, Patiala. I have gone through judgment of Hon'ble the Supreme Court in **Uttaranchal Transport Corporation Ltd.'s case (supra)** but unable to find that Hon'ble the Supreme Court has assessed income of a hawker at Rs.5,000/- per month. Taking a clue from the minimum wage available at the relevant time coupled with that the deceased was working as hawker at Bus Stand, Patiala, interest of justice would be served if income of the deceased is assessed at Rs.4500/- per month.

The deceased was less than 50 years of age. The Tribunal has not allowed benefit of increase in income for future prospects. In the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270,** claimants shall be entitled to benefit of future prospects to the extent of 25%. Admissible multiplier would be 13 and deduction for personal expenses to the extent of 1/4th. In this manner, loss of dependency comes to Rs.6,58,125/- (Rs.4500 x 12 x 13) + (25% future prospects) – (1/4th deduction for personal expenses).

Under conventional heads, claimants shall be entitled to Rs.70,000/- in the light of judgment in **Pranay Sethi's case** (supra), detailed hereunder:-

1. Funeral expenses Rs.15,000/-
2. Loss of estate Rs.15,000/-
3. Loss of consortium Rs.40,000/-

The total compensation comes to Rs.7,28,125/- and the additional amount is Rs.2,03,125/- (7,28,125 – 5,25,000), payable with interest @ 7.5% per annum from the date of petition till realization, to be shared by the claimants in equal proportion. The share of minor children shall be deposited in FDRs payable on their attaining age of majority or for a period of three years, whichever is later.

The appeal is partly allowed in aforesaid terms.

08.01.2018 **(REKHA MITTAL)**
ashok **JUDGE**

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