IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-7559-2014 (O&M)
Reserved on: 18.08.2018
Date of Decision:19.11.2018

Surinder Kumar & others ... Appellants

Versus

Lakhbir Singh & others ... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. Ashok Jindal, Advocate for the appellants.

Mr. Vinod Chaudhary, Advocate for respondent No.3.

...

TEJINDER SINGH DHINDSA, J. (ORAL).

This is claimants appeal seeking enhancement of compensation.

2. Briefly, it may be noticed that a petition was filed under Section 166 of the Motor Vehicles Act seeking compensation to the tune of Rs.50 lakhs on account of death of Renu in a motor vehicle accident that took place on 08.04.2013. Claimants were the husband and two minor children of the deceased.

3. It was asserted in the claim petition that on 08.04.2013 while deceased Renu was going along with her husband and minor son to Police Public School, Bathinda on a motorcycle, they were struck by a tanker truck bearing registration No.PB-03X-9486 which was being driven by Lakhbir Singh in a rash and negligent manner. In the accident, Renu suffered fatal injuries and even her husband Surinder Kumar received grievous injuries. FIR No.72, dated 08.04.2013 under Sections 304-A, 279, 337 and 338 IPC

was registered at Police Station Civil Lines, Bathinda on the statement made by Surinder Kumar.

4. Claim petition having been contested, the following issues were framed by the Tribunal:

> *"1. Whether Renu died on 8.4.2013, due to accident caused by driver Lakhbir Singh, while driving Tanker No.PB-03X-9486, rashly and negligently? OPP*
> *2. Whether the claimants are entitled to claim any compensation. If so, to what extent and from whom? OPP*
> *3. Relief."*

5. Insofar as issue No.1 is concerned, findings were returned by the Tribunal in favour of the claimants and it was held that death of Renu occurred on account of injuries suffered in an accident that took place on 08.04.2013 involving offending truck and which was being driven in a rash and negligent manner.

6. It may be observed that findings on issue No.1 have not been assailed by any of the respondents and as such, the same have attained finality.

7. Since the only issue raised in the instant appeal is with regard to quantum of compensation, I have heard counsel for the claimants/appellants as also learned counsel representing the contesting Insurance Company.

8. The Tribunal upon discussion on issue No.2 as regards quantum of compensation has awarded a total compensation amount of Rs.4,34,000/- along with interest @ 6% per annum from the date of filing of the claim petition till realization. The liability to pay the compensation amount was held to be joint and several.

9. While computing the compensation amount, the monthly

income of the deceased has been assessed to be Rs.3600/-. A deduction of 1/3rd from the income has been made towards personal and living expenses of the deceased. Taking the age of the deceased to be 36-37 years, a multiplier of 15 has been applied to the multiplicand. Tribunal has awarded a sum of Rs.2000/- towards funeral expenses.

10. Having heard counsel for the parties at length, this Court is of the considered view that the compensation amount would have to be re-visited and re-assessed.

11. Claimants had asserted that deceased was 36 years of age at the time of accident and she was working with PACL as a Commission Agent and was also doing the work of stitching and embroidery besides doing the household work. Claimant asserted that monthly income of the deceased was Rs.25,000/-. Deceased was a tax assessee and her income tax returns for the year 2010-11 and 2011-12 were also adduced on record. Tribunal, however, has discarded the income tax returns on the basis that no official from the Income Tax Department had been examined. Furthermore, the Tribunal has taken a view that even if deceased was working as a Commission Agent, she could not have been earning any steady and fixed income. Accordingly, by way of approximation, monthly income of Rs.3600/- has been assessed.

12. This Court finds that the monthly income of Rs.3600/- assessed by the Tribunal is much on the lower side. Even if the income tax returns of the deceased were to be discarded and no other conclusive and concrete evidence having come forth as regards income, it cannot be disputed that Renu (since deceased) was a housewife. The Apex Court in the case of **Jitendra Khimshankar Trivedi & others Vs. Kasam Daud Kumbhar &**

others, 2015 (4) SCC (237), while dealing with the aspect of assessing income of a housewife observed as under:

> *"It is hard to monetize the domestic work done by a mother. The services of the mother/wife is available 24 hours and her duties are never fixed. Courts have recognized the contribution made by the wife to the house is invaluable and that it cannot be computed in terms of money."*

13. The Apex Court in the case of **Lata Wadhwa Vs. State of Bihar, 2001 (4) RCR (Civil) 673** had assessed the monthly income of a housewife as Rs.3000/- per month. The accident in the case of **Lata Wadhwa (supra)** had taken place in the year 1981. Accident in the present case has taken place on 08.04.2013. Keeping in view the time period lapse of more than 30 years between the accident in the case of **Lata Wadhwa (supra)** and accident in the present case, it would be a fit case to take monthly income of the deceased as Rs.6000/- per month. It is so directed.

14. The Tribunal has been rather frugal in having awarded only Rs.2000/- towards funeral expenses. That apart, no amount has been awarded towards loss of consortium and loss of estate. Keeping in view the guidelines furnished in **National Insurance Company Limited Vs. Pranay Sethi & others,2017 (4) RCR (Civil) 1009,** a total amount of Rs.70,000/- is awarded under the conventional heads i.s. Rs.40,000/- towards loss of consortium, Rs.15,000/- towards loss of estates and a like amount of Rs.15,000/- towards funeral expenses.

15. In view of the above, the compensation amount is re-assessed and calculated as follows:

Sr. No.	Computation/Head	Revised calculation
1.	Income Rs.6,000/-	Rs.6000/-

2.	1/3rd deduction towards personal and living expenses of the deceased	6000-2000=4000/-
3.	Compensation after applying multiplier of 15	4000 x 12 = 48,000/- 48,000 x 15 =7,20,000/-
4.	Conventional Heads i.e. loss of estates, funeral expenses and loss of consortium etc.	Rs.70,000/-
6.	Total	7,20,000+70,000=7,90,000/-

16. The afore calculated enhanced compensation amount be released in favour of the appellants along with interest @ 6% per annum from the date of filing of the claim petition till actual realization.

17. Appeal is disposed of in the aforesaid terms.

19.11.2018 **(TEJINDER SINGH DHINDSA)**
harjeet **JUDGE**

i) Whether speaking/reasoned? Yes/No

ii) Whether reportable? Yes/No