IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

XOBJC No. 231-CII-2017 in
FAO No. 5409 of 2016 (O&M)
Date of Decision:- 09.02.2018

Sneh Lata & Ors. ....Appellants

Versus

Dheer Singh @ Tuna & Ors. ...Respondents

CORAM: HON'BLE MRS.JUSTICE REKHA MITTAL

Present: Mr. R.S. Mamli, Advocate, for the appellants.

Ms. Shamsher Kaur, Advocate, for cross-objector/respondent No.3.

REKHA MITTAL, J. (Oral)

This order will dispose of FAO No. 5409 of 2016 and Cross-objections No. 231-CII of 2017 as these have amerged out of the same award dated 05.03.2016 passed by the Motor Accidents Claims Tribunal, Yamuna Nagar at Jagadhari (in short, 'the Tribunal').

The Tribunal has awarded compensation of Rs.8,73,000/-, detailed hereunder:-

Monthly income of the deceased	=	Rs.6,000/-
Deduction for personal expenses	=	1/3rd
Multiplier	=	16
Loss of dependency	=	Rs.7,68,000/-
Funeral expenses	=	Rs.25,000/-
Loss of love and affection	=	Rs.75,000/- (Rs.25,000/- each)
Loss of estate	=	Rs.5,000/-

Counsel for the claimants/appellants has submitted that income of the deceased is liable to be assessed @10,000/- per month on the basis of testimony of Mohit Sawhney PW4, Partner of M/s Keshav Enterprises, Kami Majra, Yamuna Nagar. Claimants are entitled to increase in income for future prospects @40%. As the deceased was less than 20 years old at the time of occurrence, multiplier of 18 is admissible in the light of judgment of Hon'ble the Supreme Court ***Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr., 2009(3) RCR (Civil) 77***.

Counsel representing the Insurance Company/cross-objector has refuted contention of counsel for the claimants by contending that testimony of PW-4 Mohit Sawhney cannot form the basis for assessing income of the deceased. It is further argued that the Tribunal has allowed deduction for personal expenses @1/3rd in place of 50%. Compensation under conventional heads needs to be restricted to Rs.30,000/- in view of judgment of Hon'ble the Supreme Court ***National Insurance Co. Ltd. Vs. Parnay Sethi and Ors., 2017 SCC 1270.***

Counsel for the claimants, in reply, would state that as the deceased was only bread winner of the family consisting of his mother and two siblings, his personal and living expenses have rightly been allowed at 1/3rd in place of 50% in the light of observations recorded in Para15 of the judgment in ***Sarla Verma's case*** (supra).

PW-4 Mohit Sawhney has deposed that the deceased was working as Munshi/clerk in their firm for the past three years at a salary of Rs.10,000/- per month. The deceased was 19 years old at the time of occurrence and it is difficult to accept that he would have started working at the age of 16. This apart, testimony with regard to employment and income of the deceased does not find corroboration from any account books maintained by M/s Keshav Enterprises, Yamuna Nagar. Certificate Ex.P5 produced by the witness is not based upon any documents maintained by the aforesaid concern. It appears that claimants produced Mohit Sawhney PW4 with a clear intent to stake their claim for excess compensation. This Court is not oblivious of the fact that in applications for compensation, claimants generally have a tendency to inflate figures of income of the deceased. In this view of the matter, I do not find that the Tribunal has committed an error by discarding testimony of Mohit Sawhney PW-4 with regard to income of the deceased.

The Tribunal has assessed income of the deceased at Rs.6000/- per month. Admittedly, the deceased was unmarried and about 19 years old. The Tribunal has allowed deduction of 1/3rd for personal expenses. Hon'ble the Apex Court in ***Sarla Verma's case*** (supra) has held in the concluding lines of Para No.15 to the following effect:-

> *"Thus even if the deceased is survived by parents and siblings, only the mother would be considered to be a dependent, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third."*

In the case at hand, besides widowed mother, one elder sister and a younger brother have been claimed to be dependent upon income of the deceased. The claimants have raised a plea that the deceased started working with M/s Keshav Enterprises three years before the occurrence, meaning thereby that he started working at the age of 16 years. It is difficult to accept to reason as to why sister of the deceased would not be working if the family was facing financial crunch. When the facts and circumstances are examined in the light of aforesaid observations in ***Sarla Verma's case*** (supra), deduction for personal expenses would be 50% in place of 1/3rd. However, in view of age of the deceased, multiplier to be applied is 18. Claimants shall be entitled to increase in income for future prospects as 40%. In view of the above, loss of dependency comes to Rs.6000 x 12 x 18 + 40% thereof - 50% thereof (1296000 + 518400 - 907200) = **Rs.9,07,200/-.**

The compensation awarded by the Tribunal under conventional heads is modified by holding that the claimants would be entitled to **₹30,000/-**/- i.e **₹15,000/-** for funeral expenses and **₹15,000/-** for loss of estate. In this manner, total compensation comes to **₹9,37,200/-**. The additional amount of **₹64,200/- (₹9,37,200/- - ₹8,73,000/-)** is payable with interest @7.5% per annum from the date of petition till realisation.

The appeal is partly allowed and cross-objections are disposed of in the aforesaid terms.

February 09, 2018 **(REKHA MITTAL)**
tripti **JUDGE**

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No