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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

SANJIV KUMAR SHARMA
2019.05.28 16:23
I attest to the accuracy and
authenticity of this document

CM-14454-CII-2000 in/and
FAO-2325-2000 (O/M)
Date of decision : 20.5.2019

Pooja and another

..... Appellants

Versus

Sukhchain Singh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Puranjeet Singh, Advocate,
for appellants.

Mr. Pardeep Goyal, Advocate,
for respondent No. 3.

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KULDIP SINGH J. (ORAL)

CM-14454-CII-2000

For the reasons mentioned in application, delay of 42 days in filing accompanying appeal is condoned.

Application is disposed of.

FAO-2325-2000

This appeal has been filed against award dated 18.11.1999, passed by Motor Accident Claims Tribunal, Karnal (in short 'the Tribunal'), vide which in MACT No. 40 of 1996, filed by both appellants, who were minor at the time of accident, compensation to tune of Rs. 50,000/- was awarded on account of medical bills for treatment of Urmila Chauhan, mother of claimants-appellants. However, compensation on account of her death was denied on the ground that her death is not proved to be connected with accident and consequential injuries.

The short facts, which are required to be noticed for disposal of

appeal, are that on 10.6.1996, claimants-appellants alongwith their parents were going in a car from Delhi to Matas Vaishno Devi. The car was being driven by Pawan Kumar (driver). Near toll tax, bus stop of village Jhanjhari, truck bearing No. HNA 1535, driven by respondent No. 1 driver Sukhchain Singh hit car, as a result of which car was totally damaged. Two persons died at spot. Mother of claimants-appellants was seriously injured and later on succumbed to injuries on 30.8.1996. Tribunal came to conclusion that Urmila Chauhan was discharged from hospital on 17.7.1996. She was readmitted in AIIMS, Delhi on 30.8.1996 and died on same date due to septicemia. Therefore, it was held that death is not proved to be connected with injuries received by her in motor vehicle accident. Therefore, claim on account of death of Urmila Chauhan was denied.

Heard.

I am of view that Tribunal has not properly appreciated facts in right perspective. It is in evidence that after accident on 10.6.1996, Urmila Chauhan was rushed to AIIMS, Delhi. She was in comma and in same condition, she was discharged on 17.7.1996, apparently, on account of fact that cost of admission was very high and patient only required nursing care which could be provided at home. The evidence further shows that nursing care was infact provided for which bills were proved in addition to bills for medicines. The bills Ex.P. 230 and 231 are regarding payment of Rs. 15,050/- and Rs. 12900/- to Sister Saramma and Sister Siya (nurses) who were employed to look after deceased Urmila Chauhan. Then, Ms. Kavita, nursing sister looked after deceased from 2nd July to 31st July 1996 and charged Rs. 350/- per day and she charged Rs. 10,500/-

through agency for nursing care. The facts speak for itself. It goes to show that even at home, constant nursing had to be provided to Urmila Chauhan. It was during this period, when she required nursing care, that she most probably developed septicemia which is directly due to injuries received by her and her being in comma. There is no other reason for her to develop septicemia. In the same condition i.e. comma, she was admitted in AIIMS, Delhi, where she died. Therefore, septicemia is directly attributed to injuries received by Urmila Chauhan in motor vehicle accident and became cause of her death. Consequently, Tribunal erred in declining compensation to claimants-appellants on account of death of their mother Urmila Chauhan. The findings of Tribunal are set aside.

Now, coming to calculation, she was aged about 45 years as per discharge certificate issued on 17.7.1996. As per law laid down by Division Bench of this Court in Paramjit Singh and another Versus Dilbagh Singh alias Bagga and others, 2014 (4) RCR (Civil) 895 read with law laid down by Hon'ble Supreme Court of India in Jitendra Khimshankar Trivedi and others Versus Kasam Daud Kumbhar and others, 2015 (1) RCR (Civil) 828, notional income of house wife in the year 1996 is to be treated Rs. 3,000/- per month. No personal expenses are to be deducted. Considering age 45 years, multiplier of 14 is allowed. Compensation comes to Rs. 5,04,000/- (3000x12x14). The evidence led before Tribunal shows that there was bills for purchase of medicines and nursing care which comes to Rs. 76,650/-. The Tribunal also erred in making deduction of its own. The patient being in comma was not in a position to negotiate for the charges claimed by nursing agency or by nurses. Therefore, entire amount needs to be allowed which comes

to Rs. 76,650/-. Rs. 15,000/- on account of funeral expenses and Rs. 15,000 on account of loss of estate are also to be allowed. In view of validity of authority of Supreme Court of India in Magma General Insurance Co. Ltd. Versus Nanu Ram alias Chahru Ram and others, 2018 (4) RCR (Civil) 333, for loss of parental consortium which could also be called love and affection, Rs. 40,000/- each are to be allowed to both claimants-appellants who were minor at that time. Total amount of compensation comes to Rs. 6,90,650/- from which Rs. 50,000/- already awarded are to be deducted. Amount of enhanced compensation comes to Rs. 6,40,650/-. Said amount shall be paid by insurance company who is insurer of vehicle alongwith 7.25% interest per annum from the date of filing of claim petition till payment.

(KULDIP SINGH)
JUDGE0

20.5.2019
sjks

Whether speaking order	:	Yes / No
Whether reportable	:	Yes / No