IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.581 of 2004 (O&M)
Date of Decision :01.04.2019

Jaspal Kaur and anr. ....Appellants

Versus

Anil Kumar and others ...Respondents

CORAM : HON'BLE MR. JUSTICE B.S. WALIA

Present: Mrs. Ekta Thakur, Advocate for the appellants.
Mr. Sandeep Singh Deol, DAG, Punjab for respondent Nos.2 and 3.

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B.S. WALIA, JUDGE (ORAL)

1. Appeal has been filed by the widow and daughter of Balwinder Singh, who died in a motor vehicular accident on 06.12.2002 claiming enhancement of compensation of ₹2,40,000/- awarded by the learned Motor Accidents Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal) on the ground that the compensation has been incorrectly worked out by the Tribunal on account of inherent defects in the Second Schedule to the Motor Vehicles Act, 1988.

2. Learned counsel relies upon the decision of Hon'ble the Supreme Court in **U.P. State Road Transport Corporation versus Trilok Chandra 1996(4) SCC 362** and as followed in **Jai Prakash versus M/s National Insurance Co. & ors. 2010(2) SCC 607** to contend that the Second Schedule to the Motor Vehicles Act, 1988 has a number of defects, therefore, it is the multiplier method which is to be adopted and the Schedule is to be taken merely as a guide.

3. Learned counsel contends that the deceased was aged 55 years therefore, as per the Second Schedule, deceased being in the age group of 50 to 55 years, multiplier of 11 was to be applied and in view of notional income of the deceased having been assessed at ₹3,000/- as per the Second Schedule, compensation payable works out to ₹3,60,000/- and further by making deduction of 1/3rd of the income which the deceased would have incurred towards maintaining himself had he been alive, the compensation payable works out to ₹2,40,000/- whereas, as per calculations by applying multiplier of 11 on the notional income of ₹3,000/- per month, annual dependency works out to ₹3,96,000/- out of which on deduction of 1/3rd of the income which the deceased would have spent on himself had he been alive, dependency works out to ₹2,64,000/-.

4. Grievance is also that, despite entitlement, no amount has been awarded on account of loss of estate, loss of consortium and funeral expenses whereas as per Note III to the Second Schedule, a sum of ₹9500/- is payable on account of conventional heads i.e. ₹2,000/- on account of funeral expenses, ₹5,000/- on account of loss of consortium and ₹2500/- on account of loss of estate.

5. Learned counsel for the respondent has not controverted the factual or legal position.

6. I have considered the submissions of the learned counsel for the parties and find merit in the submissions of learned counsel for the appellant. Accordingly, in light of the position as noted above, compensation payable on account of dependency works out to ₹2,64,000/-. Besides, the appellants are also held entitled to ₹9500/- on account of compensation under conventional heads. Accordingly, as against compensation of ₹2,40,000/- awarded by the learned Tribunal, the appellants are held entitled to award of compensation of

₹2,64,000/- + ₹9,500/- = ₹2,73,500/- along with interest @ 9% per annum w.e.f. date of claim petition till date of payment, less payment, if any, already made.

7. Resultantly, appeal is allowed. Award dated 14.11.2003 passed by the learned Tribunal, Chandigarh is modified to the extent as noted above.

(B.S. WALIA)
April 01, 2019 **JUDGE**
ps

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