IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

-.-

FAO No. 4830 of 2006(O&M)
Date of decision:03.12.2019

Balbir Kaur & Anr. ... Appellants

Vs.

Narinder Singh & Ors. ...Respondents

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present:- Mr. Gulshan Kumar Moudgil, Advocate, for the appellants.

Mr. Neeraj Khanna, Advocate,
for respondent No.3 – Insurance Co.

ALKA SARIN, J.

The present appeal has been preferred by the claimants against the award dated 12.06.2006 passed by the Motor Accidents Claims Tribunal, Kapurthala (hereinafter referred to as, "the Tribunal'), whereby an amount of ₹2 lakhs was awarded to the claimants.

Shorn of all unnecessary details, the case briefly stated is that Jawahar Singh deceased, aged about 19 years, was a carpenter by profession and was earning a monthly income of ₹6000/-. It was stated in the claim petition that on 23.02.2005 Jawahar Singh was standing on the left side of a Katcha road in the area of village Boot and was talking to one Didar Singh son of Sukhia at about 7/7:30 PM, when respondent No.1-Narinder Singh, who was driving a bus bearing registration No. PB-07-L-9479 came from Subhanpur side driving a bus in a rash and negligent manner and hit Jawahar Singh, as a result of which both Jawahar Singh and Didar Singh received injuries. Jawahar Singh succumbed to his injuries. FIR No. 27 dated 23.02.2005 was registered against respondent No.1 under Section 279/338/304-A Indian Penal Code in Police Station

Subhanpur. Owner (respondent No.2) and Insurance Company (respondent No.3) were also impleaded as parties.

Respondent Nos. 1 and 2 filed a joint written statement taking preliminary objections regarding mis-joinder and non-joinder of necessary parties. They denied that the deceased was earning income of ₹6000/- per month as also the age of the deceased as claimed in the claim petition. The Insurance Company respondent No.3 filed a separate written statement stating therein that respondent No.1 was not holding a valid and proper driving licence. They, however, admitted that bus bearing registration No. PB-07-L-9479 was insured with it.

The Tribunal assessed the salary of the deceased as ₹2400/- per month in the absence of any oral and documentary evidence and granted following compensation. :-

Sr. No.	**Head**		**Compensation Awarded**
1.	Monthly dependency of the claimants	——	₹1500.00
2.	Annual dependency	——	₹1,98,000.00 (1500x12)
3.	Funeral expenses	——	₹2,000.00
4.	Total compensation	——	₹2,00,000.00

The aforesaid amount was awarded along with interest @6% per annum from the date of the award till realization.

I have heard learned counsel for the parties and gone through the record with their able assistance.

Learned counsel for the appellant has argued that the income of the deceased was ₹6000/- per month, which has wrongly been assessed by the Tribunal as ₹2400/-. He has further argued that the multiplier has been applied by the Tribunal keeping in view age of the claimants i.e. parents of the deceased. It is further argued that nothing has been awarded towards future prospects and also under the conventional heads.

Per contra, learned counsel appearing for the Insurance Company was unable to support the order passed by the Tribunal in view of the law laid down by the Hon'ble Apex Cour in ***Sarla Verma Vs. Delhi Transport Corporation, 2009 (6) SCC 121*** and ***National Insurance Co. Ltd. Vs. Parney Sethi, 2017(16) SCC 680.***

The arguments raised by the learned counsel for the appellants regarding income of the deceased deserve to be rejected inasmuch as the counsel for the appellant has failed to show any material on the record to prove that the income of the deceased was ₹6000/- per month. I, therefore, uphold the income as assessed by the Tribunal i.e. ₹2400/- per month.

However, the argument raised by learned counsel for the appellant that the calculations have not been made as per law laid down in ***Sarla Verma's*** case (supra) and ***Parney Sethi's*** case (Supra) deserves to be accepted.

It has been laid down in the case of ***Sarla Verma*** (Supra) that multiplier has to be applied keeping in view the age of the deceased and not the age of the claimants. Further, no amount has been awarded towards future prospects as also under the conventional heads. I, therefore, deem it appropriate and just to award the following compensation:-

Sr. No.	**Head**		**Compensation Awarded**
1.	Monthly Income	——	₹2400/-
2.	Dependency (Being Bachelor and claimants being parents)	——	₹1200/- (2400-50%)
3.	Annual Income (1200 x 12)	——	₹14,400/-
4.	Multiplier (18)	——	₹2,59,200/- (14,400 x 18)
5.	Future Prospects 40 %	——	₹1,03,680/-
6.	Loss of Estate	——	₹15,000/-

7.	Funeral Expenses	——	₹15,000/-
8.	Filial consortium	——	₹ 80,000/- (₹40,000/- each)
	Total Compensation	——	₹4,72,880/-

In view of the above, appellants would be entitled to an amount of of ₹4,72,880/-, along with six per cent per annum interest from the date of filing of the claim petition till its realisation.

The award passed by the Tribunal is modified to the extent mentioned above.

The appeal is disposed of accordingly.

December 03 , 2019 **(ALKA SARIN)**
tripti **JUDGE**

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