IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-4507-2011
Date of decision : 22.04.2022

Roma and another ..... Appellants

versus

Union of India and others ...... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Ishan Cooner, Advocate
for the appellants.

Mr. Vijay Kumar Chaudhary, Advocate
for respondents No.1 and 2.

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PANKAJ JAIN, J.

Challenge in this appeal is to the award dated 05.04.2011 passed by learned MACT, Patiala (hereinafter referred to as 'Tribunal'). Appellants are seeking enhancement of compensation.

2. The present lis has arisen out of an unfortunate accident involving late Parvesh Kumar aged about 14 years (at the time of accident) and the Military Truck No.06C078973X resulting into untimely death of deceased.

3. As per the claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as '1988 Act') on the fateful day, deceased and one Vipan Kumar were coming back to their house from Guru Nanak Foundation Public School on their respective bicycles. Kishori Lal, their grand father was following them on his scooty. Deceased was ahead of Vipan Kumar and both were driving their bicycles on the left hand side of the road. At about 2:10 p.m., when they reached Akal Hospital, a Military Truck came from behind in a rash and negligent manner struck against the cycle of deceased by

going on the extreme left side of the road. In this collision, deceased fell down on the road and the offending truck ran over the deceased. At the time of accident, deceased was about 14 years of age and was a student of 8th class of Guru Nanak Foundation Public School, Sullar Road, Patiala.

4. The Tribunal decided issue with respect to rash and negligent driving against respondents and in favour of the claimants. While seeking the compensation payable to the claimants, the notional income of the deceased-a student was taken to be Rs.15,000/-. A cut of 50% was applied towards personal and living expenses. After awarding multiplier of 14, total compensation was calculated as Rs.2,15,000/-.

5. Unfortunate parents are in appeal seeking enhancement of compensation. Learned Tribunal while assessing income of the deceased-a student relied upon second schedule appended to the 1988 Act to fix notional income of the deceased @ Rs.15,000/- per month. It needs to be noticed that schedule second appended to the 1988 Act was enacted on 14.11.1994. After the year 1994, the economic scenario in the country has undergone a sea change. Apex Court in the case of **Puttamma and others vs. K.L. Narayana Reddy and another** reported as **(2013) 15 SCC 45,** observed that:

> "xx xx xx xx
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> 53. Considering the current trend of inflation, cost of foodgrains and all other items, Mr P.P. Malhotra, Senior Advocate, Amicus Curiae submitted that for just compensation the multiplier should be enhanced to 24-25 years. Further, according to him, while calculating the compensation, the amount payable towards dependency should be increased as the life expectancy is up to 70-75 years and secondly, after 10 years of earning capacity it should be doubled in view of escalation of cost of living and

> progressive increase in the income. Keeping in view the cost of living, the Central Government is required to amend the Second Schedule [*See* Section 163-A(3)]. The Second Schedule was enacted by Act 54 of 1994 w.e.f. 14-11-1994. Now more than 19 years have passed but no amendment has been made. While the cost of living has gone up manifolds.
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> 54. In view of findings recorded above, we hold that the Second Schedule as was enacted in 1994 has now become redundant, irrational and unworkable due to changed scenario including the present cost of living and current rate of inflation and increased life expectancy."

6. Thus, in the year 2010, learned Tribunal ought not have relied upon notional income referred to in second schedule of 1988 Act or should have applied it by factoring in the years from 1988 to 2010.

7. It has come on record that deceased was a student of 8th standard in Guru Nanak Foundation Public School, Patiala. Taking all the factors into consideration, the notional income of the deceased is enhanced to Rs.6,000/- per month.

8. The multiplier has been wrongly awarded by the Tribunal. Multiplier of 15 is held to be applicable in terms of guidelines laid down by Apex Court in **Sarla Verma vs. Delhi Transport Corporation (2009) 6 SCC 121** as approved by the Apex Court in **National Insurance Company Limited vs. Pranay Sethi and others (2017) 16 SCC 680**. The claimants are further held entitled for compensation under conventional heads as per the guidelines issued in Pranay Sethi's case (supra). The appellants are held entitled for Rs.40,000/- for loss of consortium. The amount awarded by the Tribunal under the heads of funeral expenses and loss of estate is enhanced from Rs.5,000/- each to Rs.15,000/- each.

9. As a sequel of the discussion above, the appeal is allowed. The award of the Tribunal is modified. Compensation payable to the claimants shall be worked out as per the amounts modified herein above. As held by the Tribunal, appellant No.1-Roma wife of Surinder Kumar is held entitled for whole of the compensation alongwith interest @ 9% per annum from the date of filing of the claim petition till actual realization of the awarded amount. Needless to say any amount already paid shall be set off and adjusted.

(PANKAJ JAIN)
JUDGE

22.04.2022
Dinesh

Whether speaking/reasoned Yes

Whether Reportable : No