IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(213)

FAO-4145-2010 (O&M)
Date of decision:- 14.11.2024

Taro Devi

...Appellant

Versus

Sumer Chand and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Shvetanshu Goel, Advocate,
for the appellant.

Mr. Vinod Chaudhri, Advocate
for respondent No.3-Insurance Company.

****

VIKAS BAHL, J. (ORAL)

1. The injured has filed the present appeal for enhancement. The only question that arises for consideration in the present appeal is as to what amount of compensation the appellant-claimant is entitled to.

2. The fact that the appellant suffered injuries in a road accident that took place on 10.05.2007 in which the offending motorcycle which was driven by respondent No.1, owned by respondent No.2 and insured by respondent No.3, was involved is not in dispute.

3. Learned counsel for the appellant/claimant has submitted that

the Tribunal has not taken into consideration the loss of income of the present appellant. It is further submitted that although the present appellant was a house wife, but in view of the law laid down by the Hon'ble Supreme Court in the case of ***Rajendra Singh and others* Vs. *National Insurance Company Limited and others*, decided on 18.06.2020, along with another connected matter, reported as 2020(7) SCC 256** even a house wife would be considered to have notional income and in the said case the notional income which was fixed for the deceased was Rs.5,000/- per month with respect the accident which had taken place on 25.12.2012. It is prayed that in the present case, the loss of income should be assessed as Rs.5,000/- per month and on the additional amount the interest @ 9% per annum be also granted.

4. Learned counsel appearing for respondent No.3-Insurance Company, on the other hand, has submitted that the judgment cited by the learned counsel for the appellant does not fully support the case of the appellant, inasmuch as, the said case pertained to a house wife, who had died, whereas, in the present case, the appellant is living, although, she is stated to have suffered permanent disability. It is further submitted that in the case before the Hon'ble Supreme Court, the accident had taken place on 25.12.2012, whereas, in the present case the accident had taken place on 10.05.2007. It is submitted that a perusal of para 2 of the award of the Motor Accident Claims Tribunal would show that even as per the case of the appellant, it was stated that she was earning Rs.3000/- per month, thus, it does not lie in the mouth of the present appellant to state that she was earning more than Rs.3000/- per month or that her notional income should

be assessed as Rs.5,000/- per month. It is stated that the rate of interest which is sought to be applied by the appellant is highly excessive and at best the interest that can be awarded on the additional compensation should be 6% per annum.

5. Learned counsel for the appellant, in rebuttal, has submitted that in the above-said judgment, in paragraph 9, the case ***Lata Wadhwa Vs. State of Bihar***, ***reported as (2001) 8 SCC 197*** was considered and in the said case the notional income was assessed as Rs.36,000/- per annum of a house wife and the said SLP was decided in the year 2001 and thus, the accident in the said case was much prior to the accident in the present case i.e. 10.05.2007. It is further submitted that in the said circumstances, atleast the notional income of the present appellant should be taken to be Rs.3,000/- per month and since the present appellant has permanent disability to the extent of 70% due to amputation of her left leg from its middle as is apparent from the disability certificate (Ex.P1) and she was stated to be 40 years of age as per the said disability certificate, thus, the total amount on account of loss of income would come to Rs.3,78,000/- i.e. (Rs.2100) (3000 x 70% permanent disability) x 15 x 12_- = Rs.3,78,000/-.

6. This Court has heard learned counsel for the parties and has gone through the paperbook.

7. The Hon'ble Supreme Court in the case of ***Rajendra Singh and others*** **(supra)** had relied upon a judgment of the Hon'ble Supreme Court in the case of ***Lata Wadhwa (supra)*** in which it has been observed that a house wife renders multifarious services and even on a modest estimation, her income should be assessed as Rs.36,000/- per annum i.e.

Rs.3,000/- per month. The age group which was considered by the Hon'ble Supreme Court in the said judgment was 34 to 59. Admittedly, the present appellant is in the said age group and the judgment in the case of ***Lata Wadhawa*** was passed by the Hon'ble Supreme Court in the year 2001 which was much prior to the date of accident in the present case i.e. 10.05.2007. In the said circumstances, the plea raised by the counsel for the appellant to the effect that the notional income of the present appellant should be treated as atleast Rs.3,000/- per month on account of her own statement that she was earning Rs.36,000/- per annum deserves to be accepted and accordingly, income of the present appellant is taken to be Rs.3,000/- per month. Since there is 70% permanent disability, the notional income per month would be taken as 2100/- per month. The multiplier which would be applicable in the present case would be '15' as the age of the present appellant as per the disability certificate is stated to be 40 years and the same would be required to be multiplied by '12', thus, the total amount on account of loss of income would come to Rs.3,78,000/-. On the aspect of interest, it would be relevant to mention that this Court has repeatedly deemed it fit to award interest @ 7.5% per annum and is of the opinion that even in the present case, the said rate of interest would be appropriate.

8. Keeping in view the abovesaid facts and circumstances, the present appeal is partly allowed and the impugned award dated 19.08.2009 is modified and respondent No.3-Insurance Company is directed to pay an additional amount of compensation to the tune of Rs.3,78,000/- to the appellant/claimant along with interest at the rate of 7.5% per annum from

the date of filing of the claim petition till the date of actual payment within a period of six weeks from today.

November 14, 2024 **(VIKAS BAHL)**
naresh.k **JUDGE**

Whether speaking/reasoned:- Yes
Whether reportable:- Yes