(2015) 04 P&H CK 0268

In the Punjab And Haryana At Chandigarh

Case No : FAO No. 4488 of 2001 (O&M)

Anju Kumari Batra and Others APPELLANT

Vs

Prem Lal and Others RESPONDENT

Date of Decision : 30-04-2015

Acts Referred:

Citation : (2015) 04 P&H CK 0268

Hon'ble Judges : Karam Chand Puri, J

Bench : Single Bench

Advocate : Jagdish Manchanda and Ravi Gakhar, for the Appellant

Final Decision : Disposed off

Judgement

Karam Chand Puri, J.—This is an appeal directed by the widow, minor children of Ashok Kumar, who is stated to have died in a motor vehicular accident.

2. The learned Tribunal after apprising all the evidence partly accepted the claim petition and allowed a sum of Rs. 4,32,000/-. The income of the deceased was taken as Rs. 4500/- per month by keeping in view the income tax return, in which his income was shown as Rs. 54,000/-. 1/3rd amount was deducted in respect of personal expenses and monthly dependency was taken as Rs. 3000/- and annual dependency was taken as Rs. 36,000/- (3,000 x 12). The age of the deceased was taken as 40 years and a multiplier of 12 was applied and in this manner a sum of Rs. 4,32,000/- (36,000 x 12) was allowed. The widow and children have directed this appeal for enhancement of compensation.

3. Learned counsel for the appellant has submitted that claimant had pleaded the income of the deceased as Rs. 10,000/- per month but the Tribunal has taken the income of deceased as Rs. 4,500/-.

4. I have considered the submissions made by learned counsel for the appellant, but do not find any force in that submissions.

5. The income tax returns shows income of deceased as Rs. 54,000/- per annum,

so his income has rightly been taken as Rs. 4,500/- per month by the Tribunal.

6. The next contention raised by learned counsel for the appellants is that no amount in respect of future prospects has been taken into account. No amount in respect of loss of consortium, love and affection and expenses on last rites have been given. It is further submitted that deduction should be to the extent of 1/4th share in view of Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, (2009) ACJ 1298 : AIR 2009 SC 3104 : (2009) CLT 1055 : (2009) 6 JT 495 : (2009) 6 SCALE 129 : (2009) 6 SCC 121 : (2009) 5 SCR 1098 : (2009) 5 UJ 2280 : (2009) AIRSCW 4992 : (2009) 3 Supreme 487 .

7. Learned counsel for the Insurance Company has submitted that the case relates to the year 1998 and as such amount granted to the claimant has been correctly assessed. Regarding future prospects, learned counsel for the Insurance Company has submitted that matter is pending before the larger Bench of Supreme Court in NIC Vs. Pushpa and others, SLP CC No. 8058 of 2014.

8. I have considered the submissions made by learned counsel for the parties and have gone through the record carefully.

9. The first point for determination is whether the claimants are entitled to claim compensation by adding future prospects. The answer to that question has been given by this Court in FAO No. 3903 of 2012 titled as ''Balbir Kaur and others Vs. State of Haryana and others''. In the said authority, it has been held that future prospects has to be granted in accordance with Rajesh and Others Vs. Rajbir Singh and Others, (2013) 2 ACC 841 : (2013) ACJ 1403 : (2013) 3 CTC 883 : (2013) 8 JT 288 : (2014) 173 PLR 779 : (2013) 3 RCR(Civil) 170 : (2013) 6 SCALE 563 : (2013) 9 SCC 54 : (2014) 1 SCC(L&S) 149 . In the said authority, it has been held that increase of 30% has to be granted to the deceased falling in the age group of 40 to 50 years of age. In the present case, the deceased was 40 years and as such the amount of 30% required to be added for computing compensation. So, the amount by adding 30% of the income i.e. Rs. 1350/- comes to Rs. 5850/- (4500+1350). There are four claimants and the old aged father has also been held dependent. In authority Smt. Sarla Verma''s case (supra), it has been held that where the defendants are 4 to 6 in that case 1/4th amount should be deducted in respect of personal expenses. So, by deducting 1/4th in respect of personal expenses, the dependency of the claimants comes to Rs. 4387/-. The yearly dependency comes to Rs. 52,644/- (4387 x 12). The multiplier applicable at the age of 40 as per Smt. Sarla Verma''s case (supra) is 15, so by applying the multiplier of 15 the amount comes to Rs. 7,89,650/-.

10. The amount in respect of love and affection, loss of consortium and last rites has to be awarded keeping in view the price index prevailing at that time, so the ends of justice should be met in case, a sum of Rs. 10,000/- is allowed in respect of expenses on last rites and transportation charges, another sum of Rs. 25,000/- stands allowed in respect of loss of consortium. The claimants are also held entitled to claim Rs. 25,000/- in respect of love and affection. So, in this

manner, the claimants are held entitled to Rs. 8,49,650/- rounded of to Rs. 8,50,000/- in all. Since the occurrence relates to the year 1998 and as such sons of Ashok Kumar must have become major till now, so in these circumstances, out of the enhanced amount, Rs. 2,18,000/- shall be paid to the widow as she has to lead her whole life.

11. Learned counsel for the parties are unable to say about, whether father of deceased is alive or not? In case, if he is alive, he shall be entitled to claim Rs. 50,000/- out of the enhanced amount of compensation along with interest. However, in case, he is not alive, in that case, the remaining amount of Rs. 2 lacs shall be shared by claimants No. 2 and 3 in equal share. The liability to pay the amount shall be the same as ordered by the Tribunal. The said enhanced amount shall carry interest @ 7.5% per annum from the date of application till payment.

12. The appeal stands partly disposed of, accordingly.