
(2013) 08 P&H CK 0245

In the Punjab And Haryana At Chandigarh

Case No : F.A.O. No's. 4556, 4558, 4559 and 4560 of 2011 O and M

Sheela Devi

APPELLANT

Vs

Subhash Chander and Others

RESPONDENT

Date of Decision : 23-08-2013

Acts Referred:

Citation : (2013) 08 P&H CK 0245

Hon'ble Judges : Vijender Singh Malik, J

Bench : Single Bench

Advocate : Sanjeep Jasuja, for the Appellant; Ravinder Arora, Advocate for Respondent No. 3 and Mr. D.R. Bansal, Advocate for Respondent No. 4-Insurance Company, for the Respondent

Final Decision : Allowed

Judgement

Vijender Singh Malik, J.—The above mentioned four appeals arise out of the award dated 21.1.2011 passed by learned Motor Accidents Claims Tribunal, Ferozepur (for short, "the Tribunal"). A family consisting of Sanjeev Kumar, his wife Poonam Singla and his two children, Niharika and Aashit was wiped out in a roadside accident that took place on 18.6.2008 at 6.30 AM. The claimant in all the four cases is Sheela Devi, mother of Sanjeev Kumar, mother-in-law of Poonam Singla and grandmother of Niharika and Aashit.

2. Claim petition No. 65 of 2008 has been brought by Smt. Sheela Devi on the death of her grand daughter, Niharika. Claim petition No. 66 of 2008 has been brought by Smt. Sheela Devi on the death of Poonam Singla, her daughter-in-law. Claim petition No. 67 of 2008 has been brought by Smt. Sheela Devi on the death of her son, Sanjeev Kumar and claim petition No. 68 of 2008 has been brought by Smt. Sheela Devi on the death of her grand son, Aashit. FAO Nos. 4556, 4558, 4559 and 4560 of 2011 have been filed respectively by Sheela Devi in the aforesaid claim petitions.

3. Niharika, about whose death FAO No. 4556 of 2011 has been brought, has

been 3 years, old grand-daughter of the appellant. She was the only granddaughter of the appellant. On the death of Niharika, the appellant suffered mentally and a sum of Rs. 10.00 lakhs is sought as compensation on her death.

4. Poonam Singla, about whose death FAO No. 4558 of 2011 has been brought, has been 29 years of age. She was running a commission agency in the name and style of M/s. Ramji Dass Naresh Kumar at Patran and was earning a sum of Rs. 1,50,163/- per annum. She was rendering services at home also. The claimant has sought a sum of Rs. 30.00 lakhs on her death.

5. Sanjeev Kumar, about whose death FAO No. 4559 of 2011 has been brought, is stated to have died at the age of 31 years. He was running a commission agency in the name and style of M/s. Ramji Dass Naresh Kumar at Patran and was earning a sum of Rs. 1,03,072/- per annum. A sum of Rs. 50.00 lakhs has been claimed as compensation on his death.

6. Aashit, about whose death FAO No. 4560 of 2011 has been brought, has been 1-1/2 years old grandson of the appellant. He was the only grandson of the appellant and on his death, the appellant suffered mentally. She has claimed a sum of Rs. 10.00 lakhs as compensation on the death of Aashit.

7. The aforesaid averments of the claimant have been denied suitably by the respondents. They have claimed the amounts sought as compensation to be highly exaggerated and have denied all the allegations in this regard.

8. Hearing learned counsel for the parties, learned Tribunal awarded a sum of Rs. 1,52,000/- for case of death of Niharika. Niharika had been a non-earning person and her notional income was taken as Rs. 15,000/- and multiplier of 15 was applied. A sum of Rs. 1,50,000/- was found to be due to the claimant as compensation, to which a sum of Rs. 2,000/- was added as expenses on the last rites of the deceased.

9. In case of Poonam Singla, learned Tribunal took the annual income of the deceased at Rs. 1,50,163/-. However, learned Tribunal has considered the fact that she would have spent this amount on her husband and children and not entirely on the claimant. The dependency of the claimant, a mother-in-law of the deceased, has been taken at Rs. 30,000/- per annum. Since the claimant has been 60 years of age, learned Tribunal took the multiplier of 7 and assessed a sum of Rs. 2,10,000/- as compensation and added to it a sum of Rs. 2,000/- as expenses on last rites of the deceased.

10. In case of death of Sanjeev Kumar, learned Tribunal took the income of the deceased at Rs. 1,03,072/- per annum but observing that he would have spent much of this amount on his wife and children, the dependency of the claimant, mother of the deceased, is taken at Rs. 30,000/- per annum. The same multiplier of 7 has been adopted by learned Tribunal and a sum of Rs. 2,10,000/- was found to have been lost by the deceased in the death of her son Sanjeev Kumar, to which a sum of Rs. 2,000/- was added as expenses on the last rites of the

deceased.

11. Lastly, in the case of Aashit, learned Tribunal again took him to be a non-earning person, whose notional income was taken at Rs. 15,000/- per month and adopting the multiplier of 15, a sum of Rs. 1,50,000/- was found to have been lost by the claimant on the death of Aashit, to which a sum of Rs. 2,000/- was added as expenses on the last rites of the deceased.

12. Learned counsel for the appellant has contended that in case of death of Sanjeev Kumar and Poonam Singla, the multiplier of 7 has been adopted by learned Tribunal. According to him, the multiplier has been taken to be of 7 taking the age of the claimant as 60 years. According to him, learned Tribunal was wrong in taking the age of the claimant as 60 years. He has submitted that she told her age as 60 years in June, 2010 when she was cross-examined while the Tribunal had to determine her age on the date of accident, which was 18.6.2008. According to him, she would, therefore, be taken under the age of 60 years on the date of accident and, therefore, the multiplier of 9 would be suitable in the two cases. He has further submitted that learned Tribunal has added a sum of Rs. 2,000/- towards expenses on the last rites in each case. According to him, a sum of Rs. 2,000/- is too low as compensation for expenses on the last rites. He has, moreover, submitted that no compensation for loss of estate has been awarded.

13. Learned counsel for respondent no. 3, who is held liable to pay the compensation, has submitted that there is no evidence of age of the claimant on the record. According to him, learned Tribunal was, therefore, right in taking the age of the claimant as 60 years. He has submitted that compensation awarded is already on a higher side and there is no scope of enhancement of the compensation in these appeals.

14. Though, it is not argued that the dependency of the claimant on the deceased Poonam Singla and Sanjeev Kumar has been taken at lower side, I do not find any ground to interfere with the same. However, the multiplier certainly appears to have been adopted on a lower side.

15. The claimant told her age as 60 years on the date of her appearing for cross-examination which was in June, 2010. She was required to prove her age on 18.6.2008, the date of the death of her son and daughter-in-law and grandchildren when she suffered the loss. At least, she would be below the age of 60 years on that date. As per the decision of Hon"ble Supreme Court of India in Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another 2009(3) RCR (Civil) 77, the multiplier of 9 would be available for the age group of 56 to 60 years.

16. Though, it is argued before me that there was no evidence of age of the claimant, yet the statement of the claimant was not challenged on behalf of the answering respondent. Therefore, the annual dependency in a sum of Rs. 30,000/- is required to be multiplied by 9 in both the cases of death of Sanjeev

Kumar and Poonam Singla and, therefore, the amount of loss suffered by the claimant on their death comes to Rs. 2,70,000/- in each case. The amount of Rs. 2,000/- awarded for the last rites is on lower side. Adding a sum of Rs. 20,000/- to the aforesaid amount as expenses on funeral and for loss of estate, I find a sum of Rs. 2,90,000/- in each case to be the appropriate compensation for the death of Sanjeev Kumar and Poonam Singla.

17. Coming to the cases of death of Niharika and Aashit, the compensation appears to have been properly assessed. The deceased have been non-earning persons and compensation could not be assessed by taking any income for them. However, the amount of Rs. 2,000/- allowed as compensation for the last rites of the deceased is also on lower side. In those cases, adding a sum of Rs. 20,000/- to a sum of Rs. 1,50,000/- each, a sum of Rs. 1,70,000/- each is found to be the compensation payable to the appellant, Sheela Devi on the death of Niharika and Aashit.

18. Consequently, the appeals are allowed and the amount of compensation has been enhanced in the following terms:-

The other terms regarding rate of interest etc. appearing in the awards of the Tribunal shall remain the same.