(2014) 04 P&H CK 0004

In the Punjab And Haryana At Chandigarh

Case No : F.A.O. No. 2357 of 2005

Surjit Singh and Others — APPELLANT

Vs

Chandan Dogra and Others — RESPONDENT

Date of Decision : 02-04-2014

Acts Referred:
Motor Vehicles Act, 1988 — Section 163-A

Citation : (2015) ACJ 1974

Hon'ble Judges : Navita Singh, J

Bench : Single Bench

Advocate : Ashwani Arora, Advocate for the Appellant; Satpal Dhamija and Ashwani Talwar, Advocate for the Respondent;

Final Decision : Allowed

Judgement

Navita Singh, J.

1. This appeal has been filed against the award dated 25.2.2005 passed by Motor Accidents Claims Tribunal (for short ''the Tribunal''), Panchkula, whereby the appellants were granted compensation to the tune of Rs. 90,000 on account of death of Gurdev Kaur, who was wife of appellant No. 1 and mother of other appellants. The appellants have prayed for enhancement. The case of the appellants before the Tribunal was that on 13.10.2003 at about 8.30 a.m., Gurdev Kaur (deceased) was going from Derabassi to Garhi Kartaran while sitting on a pillion of scooter bearing No. CHQ 4888, which was being driven by Shamshad. Another scooter bearing No. HR 49-8665 was going ahead which was being driven by respondent No. 1. When they reached near Wilson Factory, Derabassi, respondent No. 1 suddenly applied brakes due to which the scooter being driven by Shamshad hit the other scooter and both the riders fell down. Gurdev Kaur and Shamshad were removed to the hospital, from where Gurdev Kaur was referred to P.G.I., Chandigarh, where she died on 17.10.2003.

2. It may be pointed out here that this was a totally burnt case and the matter

had to be decided on the basis of award. In the award, it was written that the deceased was stated to be 55-year-old housewife having monthly income of Rs. 4,000. The learned counsel for the appellants pointed out that there was some mistake because in the petition it was written that the deceased was not working and that her income ''may be taken'' as Rs. 4,000. He showed the petition where it is so written. It is, therefore, clear that there was a mistake in the award where it was mentioned that the deceased was having a monthly income of Rs. 4,000.

3. Respondent Nos. 1 and 2 filed joint written statement that no accident had taken place with the scooter being driven by respondent No. 1 and that the petition had been filed to extract money. The police lodged a false and frivolous case against the driver.

4. Insurance company filed a separate written statement denying the averments made in the petition stating that exaggerated amount had been claimed. It was stated that the petition was not maintainable as respondent No. 1 was not holding a valid driving licence at the time of accident.

5. From the pleadings of the parties, the Tribunal framed the following issues:

"(1) Whether accident causing death of Gurdev Kaur had taken place due to involvement of vehicle No. HR 49-8665 driven by respondent No. 1, as alleged?

OPP

(2) If issue No. 1 is proved whether the claimants are entitled for compensation, if so, to what amount and from whom?

OPP

(3) Whether respondent No. 1 was not having valid and effective driving licence at the time of accident, as alleged?

OPR-3

(4) Relief."

6. It was held by the Tribunal that the petition having been filed under section 163-A of Motor Vehicles Act (for short ''the Act''), the provisions of the Second Schedule had to be adhered to. Accordingly, the notional income of the non-earning deceased was taken to be Rs. 15,000 per annum and 1/3rd was deducted towards her personal expenses. For the purpose of calculating the compensation, her income was taken to be Rs. 10,000 per annum and keeping in view the age of deceased, which was 55 years, multiplier of 8 was applied. The compensation on that count came to Rs. 80,000. Apart from that, a consolidated sum of Rs. 10,000 was also awarded for funeral expenses, loss of consortium and loss to estate, etc.

7. Learned counsel for the appellants argued that in view of Lata Wadhwa and Others Vs. State of Bihar and Others, , the contribution of the deceased towards

her family should have been taken at least at Rs. 36,000 per annum as per her age. He contended that it was held in the said case that where a housewife dies in an accident and she is aged 34-59 being active in life, the annual contribution should be taken to be Rs. 36,000. Nothing was also required to be deducted towards personal expenses on account of the contribution. Learned counsel for the appellants also referred to a judgment by a Division Bench of this court in Paramjit Singh and Another Vs. Dilbagh Singh Alias Bagga and Others, , where the Bench held to the same effect. Accepting the principle laid down in Lata Wadhwa (supra), the value in money for contribution of the housewife was taken to be Rs. 3,000 for the above said age group and it was also held that nothing was required to be deducted towards personal expenses.

8. Learned counsel for the appellants, however, did not dispute the multiplier applied by the Tribunal.

9. Learned counsel for the respondent No. 3, i.e., National Insurance Co. Ltd. contended that since the petition was filed under section 163-A of the Act, Tribunal was right in sticking to the Second Schedule and the notional income of the deceased was correctly taken to be Rs. 15,000 per annum and deduction was also rightly made in view of the said provisions of law. He also contended that no fault could be found with the amount of compensation granted by the Tribunal.

10. The learned counsel for the appellants reiterated that the amount as stated in Lata Wadhwa (supra) and Paramjit Singh (supra) should be awarded. He submitted that these days Rs. 3,000 is the least which can be taken to be the contribution of the housewife towards her family for doing household chores, etc. The arguments raised by learned counsel for the appellants are reasonable and convincing and are accepted. It is held that the contribution of the deceased for the family was Rs. 3,000 per month, i.e., Rs. 36,000 annually. Nothing is to be deducted towards the personal expenses. Applying the multiplier of 8, the amount comes to Rs. 2,88,000. The other amount of Rs. 10,000 awarded by the Tribunal does not call for any change. The total compensation is enhanced to Rs. 2,98,000 and the appeal is allowed accordingly. Rate of interest on the enhanced amount shall remain same as awarded by the Tribunal.

