

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

FAO NO. 3399 of 2011
Date of order: -08.10.2013

Simar Kaur

..... Appellant

Versus

Pawan Kumar and ors.

.... Respondents

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CORAM: HON'BLE MR. JUSTICE VIJENDER SINGH MALIK

Present: Mr. S.P. Dhamija, Advocate for
Mr. Ashwani Talwar, Advocate
for the appellant.

Mr. J.S. Cooner, Advocate for respondent No.1.

Mr. A.S. Sidhu, Advocate
for respondent no.3.

Vijender Singh Malik, J.

This is claimant's appeal for enhancement of compensation. Gurpreet Singh, a son of the claimant, died in a road side accident that took place on 21.06.2008. On his death, Simar Kaur, his mother has brought a claim petition under section 166 of the Motor Vehicles Act, 1988(for short 'the Act') seeking compensation in a sum of ₹10,00,000/-. Learned Motor Accidents Claims Tribunal, Fatehgarh Sahib (for short 'the Tribunal') vide award dated 15.12.2010 allowed the claim petition in a sum of ₹2,26,000/-.

Gurpreet Singh has been aged 16 years at the time of his death. He was studying in 10+1 in S.I.S. Baba Maan Singh Academy, Pehowa. The claimant had high hopes on her son, who would have earned more than Rs.10,000/- per month on coming to the age of earning. A sum of Rs.30,000/- was spent on the last rites of the deceased. Thus, a sum of Rs.10,00,000/- is claimed as compensation.

The claim petition is resisted by the respondents. They have denied the aforesaid averments of the claimants regarding age and other particulars of the deceased. It is denied that a sum of Rs.30,000/- was spent on his last rites. The claimant is denied to deserve a sum of ₹10,00,000/- as compensation. They have prayed for dismissal of the claim petition.

The deceased has been taken to be of the age of 16 years at the time of his death. He was student of 10+1. He was soon coming to the earning age. Learned Tribunal took his notional income at Rs.3000/- per month. He has, however, taken the dependency of the claimant to be 40% instead of 50%. The contribution of Gurpreet Singh to his mother was, thus, taken at Rs.1200/- per month, which came to Rs.14,400/- per annum. Multiplier of 15 is adopted in the case to assess the compensation by learned Tribunal. A sum of Rs.2,16,000/- is found to have been lost by the claimant in the death of Gurpreet Singh. A sum of Rs.10,000/- was added as expenses on the transportation and last rites of the deceased and, therefore, a sum of Rs.2,26,000/- has been assessed as compensation.

Learned counsel for the appellant has contended that the deceased was though of the age of 16 years, yet even if he would have done labour work, he could have earned Rs.4200/- per month, which is the wages of an unskilled labourer as per minimum wages. According to him, notional income was, therefore, not properly assessed. According to him, future prospects were also not added thereto. He has further submitted that 40% instead of 50% has been assessed as dependency of the claimants and lastly he has submitted that the multiplier is also on a lower side. According to him, a sum of Rs.10,000/- has been assessed as compensation for expenses on last rites and no amount was assessed as compensation for love and affection and loss of estate.

Learned counsel for respondent No.3, on the other hand, has submitted that the deceased had not come of earning age and, therefore, the principle of unskilled labourer would not be applicable to this case. According to him, the deceased was neither self employed nor working on daily wages and, therefore, the principle of future prospects would also not apply. According to him, adequate amount has already been assessed as compensation and, therefore, no enhancement thereto is possible in this case.

It is a case where the deceased was a student of 10+1. He was to take about 4 or 5 years in coming of the age of earning. Therefore, the concept of wages of unskilled labourer would not be available in this case. However, a 16 years old person, if starts earning would be able to earn a sum of Rs.4000/- per month. Therefore, I take the notional income

of the deceased as Rs.4000/- per month. Since the income of the deceased is taken on assumption basis, there is no chance to apply the principle of addition of the income in the name of future prospects.

Learned Tribunal has not been justified in finding the dependency of the claimant at 40% of the income of the deceased. She being the mother, has been entitled to 50% of the income of the deceased. Therefore, the monthly dependency of the claimant would come to Rs.2000/-, which would work out to Rs.24,000/- as annual dependency. I could not find any fault with the multiplier. The claimant is 38 years old and as she is in the age group of 36 to 40 years, the multiplier of 15 is to be applied as per the decision of Hon'ble Supreme Court of India in **Smt. Sarla Verma and others v. Delhi Transport Corporation and another** 2009 AIR (SC) 3104.

Multiplying the annual dependency with 15, I find a sum of Rs.3,60,000/- as the amount lost by the claimant in the death of Gurpreet Singh. Adding to it, a sum of ₹15,000/- as compensation under the conventional heads, I assess a sum of ₹3,75,000/- as compensation in favour of the claimant on the death of Gurpreet Singh.

Consequently, the appeal is allowed enhancing the compensation from ₹2,26,000/- to ₹3,75,000/- with the terms regarding interest etc. as settled by learned Tribunal remaining the same.

(VIJENDER SINGH MALIK)
JUDGE

08.10.2013
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