

Ish Kumar and Another Vs. Baldev Singh and Others

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Court : Punjab and Haryana

Decided On : Jan-28-2014

Appellant : Ish Kumar and Another

Respondent : Baldev Singh and Others

Judgement :

FAO-2062-2011 -1- IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH FAO-2062-2011 (O&M) Date of decision: 28.01.2014 Ish Kumar and another ...Appellants Versus Baldev Singh and others ...Respondents  
CORAM: HON'BLE Mr.JUSTICE JITENDRA CHAUHAN Present: Mr.Ankit Aggarwal, Advocate, for Mr.Arun Sharma, Advocate, for the appellants.

Mr.P.K.Rohilla, Advocate, for respondent Nos.1 and 2.

Mr.Subhash Goyal, Advocate, for the Insurance Company.

.-. JITENDRA CHAUHAN, J.

The present appeal has been filed seeking enhancement of the amount of compensation awarded by the learned Motor Accident Claims Tribunal, Karnal, ('the Tribunal', for brevity) vide impugned award dated 04.11.2010, on account of death of their son, namely, Ankit Arora, in a motor vehicular accident.

The learned counsel for the appellants submits that amount of compensation awarded by the learned Tribunal under Sethi Atul 2014.02.11 18:29 I attest to the

accuracy and integrity of this document Chandigarh FAO-2062-2011 -2- various heads is highly inadequate.

On the other hand, the learned counsel for the respondent-Insurance Company has vehemently argued that the amount of compensation awarded by the learned Tribunal is just and appropriate and does not call for any interference.

I have heard the learned counsel for the parties and perused the record.

It is evident from the perusal of the impugned award that at the time of his death, the deceased was aged 20 years. The learned Tribunal has applied multiplier of 13 keeping in view the age of the appellant-mother.

In *Amrit Bhanu Shali versus National Insurance Co.LTD.(SC).2012(4) R.C.R.(Civil) 343*, Hon'ble the Apex Court was pleased to hold that in a case relating to the death of a bachelor, the basis for determination of multiplier should be the age of the deceased and not that of the claimant(s). In the present case, the deceased was a bachelor.

Therefore, the multiplier of 13 as selected by the learned Tribunal is increased to 18.

It is further observed that the learned Tribunal has not considered the aspect of future prospects of the deceased.

In *Rajesh versus Rajbir Singh (SC).2013(3) R.C.R.(Civil) 170*, it has been categorically held by Hon'ble the Supreme Court that in case *Sethi Atul* 2014.02.11 18:29 I attest to the accuracy and integrity of this document Chandigarh FAO-2062-2011 -3- of death of a person who is self employed or earning fixed salary, there should be addition to the actual income of the deceased while computing future prospects.

In the instant case, the deceased was aged 20 years. therefore, an addition of 50% of the actual income is made.

The amount of Rs.5,000/- awarded towards last rites is also enhanced to Rs.25,000/-.

Another amount of Rs.1,00,000/-, is awarded on account of loss of love and affection.

Keeping in view the above, the compensation to be awarded to the appellant comes to as under:- Sr.No.Heads Calculation (1) Salary per month Rs.4,000/- (2) Salary per month after addition [Rs.4,000/- + of 50% towards future prospects Rs.2,000/-].Rs.6,000/- (3) Income after applying Rs.3,000/- deduction (4) Annual dependency Rs.36,000/- (5) Compensation after multiplier Rs.6,48,000/- of 18 is applied (6) List rites Rs.25,000/- (7) Loss of love and affection Rs.1,00,000/- Total Compensation Awarded Rs.7,73,000/- In view of the above, the claimant-appellant, mother of the deceased, is held entitled to the enhanced compensation of Rs.4,56,000/- (Rs.7,73,000/- less Rs.3,17,000/-) over and above the amount already awarded by the learned Tribunal, which shall Sethi Atul 2014.02.11 18:29 I attest to the accuracy and integrity of this document Chandigarh FAO-2062-2011 - 4- be payable within a period of 45 days from the date of receipt of a certified copy of this judgment, failing which, they shall also be entitled to interest @ 7.5% per annum, from the date of filing the present appeal, till its realization.

With the aforesaid modification in the impugned award, the present appeal is partly allowed.

28.01.2014 ( JITENDRA CHAUHAN) atulsethi JUDGE Note : Whether to be referred to Reporter : Yes / No.Sethi Atul 2014.02.11 18:29 I attest to the accuracy and integrity of this document Chandigarh

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