

Before M. Jeyapaul, J.

DR. SHASHI SHARMA & ORS.--- *Appellants*

versus

WAZIR SINGH & ORS.--- *Respondents*

FAO No. 503 of 2012

February 13, 2013

Motor Vehicles Act, 1988 - Claimants challenged quantum of compensation fixed by Tribunal - Deceased aged 50 years - Salary of deceased was Rs.1,00,957/- but Appellant No.1 started receiving Rs.98,481/- per month out of said amount - Tribunal wrongly assessed on the basis of difference amount i.e. Rs.3000/- per month - Insurance company is not entitled to any deduction from amount given by Government - Loss of dependency is to be calculated on the basis of monthly income received by deceased at time of accident - Claimants appeal was partly allowed.

Held, that in Purnima's case (supra) referred to above, the Division Bench of this Court has categorically held that any amount received by the dependents under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 shall not be deducted from the quantum of compensation fixed by the Tribunal. In other words, the insurance company is not entitled to any deduction from the said amount given to the dependents by the Government under the aforesaid Rules. Therefore, applying the above multiplier, the loss of dependency based on the monthly income received by the deceased at the time of the accident will have to be calculated.

(Para 5)

Further Held, that in view of the above, a sum of Rs.89,24,604/- (Rs.1,00,957/- 15% thereof being Rs.15,143/- = Rs.85,814/- - 1/3rd thereof being Rs.28,605/- = Rs. 57,209 x 12 = Rs.6,86,508/- x 13 = Rs.89,24,604/-) towards loss of dependency, Rs. 15,000/- towards loss of consortium of the Ist Appellant, Rs. 15,000/- towards loss of estate, Rs. 10,000/- towards funeral expenses and Rs. 5000/- towards transportation

expenses, in aggregate a sum of Rs.89,60,604/- with interest @ 7.5% for the enhanced portion of the compensation from the date of petition till the date of realization is awarded. The rate of interest applied and the mode of apportionment done by the Tribunal stands confirmed.

(Para 6)

Vinod Gupta, Advocate for the Appellants.

Rajesh Katoch, Advocate for respondent No. 3.

M. JEYAPPAUL, J. ORAL)

(1) The claimants have preferred the appeal aggrieved by the quantum of compensation fixed by the Tribunal. Dr. Ashwani Shanna who was 50 years of age met with a motor accident which took place on 24.10.2010 in front of General Hospital, Jind and died out of the injuries he sustained in the accident. The Tribunal based on the evidence of RW-2 Karamjit Grewal who gave evidence based on the records from the hospital, fixed the salary of the deceased at Rs. 1,00,957/-. But considering the fact that the pl appellant has started receiving a sum of Rs. 98,881/- out of the said amount of Rs. 1,00,957/- per month, the monetary loss on account of the death of Dr. Ashwani Sharma was assessed only at Rs. 3000/- per month. The Tribunal assessed the age of the deceased "more than 50 years of age". Only a sum of Rs. 10,000/- was awarded towards loss of consortium and funeral expenses. Nothing was awarded towards transportation of the death body and loss of estate have to be applied as per the decision in Sarla Verma's case (supra).

(2) In Purnima's case (supra) referred to above, the Division Bench of this Court has categorically held that any amount received by the dependents under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 shall not be deducted from the quantum of compensation fixed by the Tribunal. In other words, the insurance company is not entitled to any deduction from the said amount given to the dependents by the Government under the aforesaid Rules. Therefore, applying the above multiplier, the loss of dependency based on the monthly income received by the deceased at the time of the accident will have to be calculated. The deceased had left behind three dependents.

Therefore, 1/3rd of the income of the deceased will have to be deducted towards his personal expenses. 15% of the income will also have to be deducted towards income tax. The Court has also proposed to award a sum of Rs. 15,000/- towards loss of consortium of the plaintiff appellant at the age of 43, Rs. 15,000/- towards loss of estate, Rs. 10,000/- towards funeral expenses and Rs. 5000/- towards transportation expenses.

(3) In view of the above, a sum of Rs. 89,24,604/- Rs.1,00,957/- --15% thereof being Rs.15,143/- ~85,814/- 1/3rd thereof being Rs. 28,605/- Rs.57,209 x 12 =Rs.6,86,508/-x13 Rs.89,24,604) towards loss of dependency, Rs.15,000/- towards loss of consortium of the plaintiff appellant, Rs.15,000/- towards loss of estate, Rs.10,000 - towards funeral expenses and Rs. 5000/- towards transportation expenses, in aggregate a sum of Rs.89,60,604/- with interest @ 7.5% for the enhanced portion of the compensation from the date of petition till the date of realization is awarded. The rate of interest applied and the mode of apportionment done by the Tribunal stands confirmed.

(7) With the above modification in the quantum of compensation, the appeal stands allowed in part. "

A. Jain