209
IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 6638 of 2012
Date of Decision : 09.09.2016

Seema and others **...Appellants**

Versus

Mahesh and others **...Respondents**

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Kartar Singh Malik (1), Advocate for the appellants.

Mr. Aditya Kochar, Advocate for
Mr. Migroup Sharma, Advocate for the respondents.

***

Rekha Mittal, J.(Oral)

The claimants are in appeal seeking enhancement of compensation in regard to death of Sandeep aged 25 years in a motor vehicular accident on 31.10.2011.

The Motor Accident Claims Tribunal, Rohtak (for short 'the Tribunal') assessed income of the deceased at ₹6000/- per month, deducted 1/4th towards personal expenses, adopted multiplier of 18 and computed loss of dependency to the tune of ₹9,72,000/-. In addition, an amount of ₹10,000/- towards loss of consortium to the widow and ₹5000/- for funeral expenses have been awarded.

Counsel for the appellants has submitted that income of the

Kanchan
2016.10.05 16:07
I attest to the accuracy and
authenticity of this document
Chandigarh

deceased assessed by the Tribunal needs enhancement in view of testimony of Sanjay PW3. He deposed that he is running a shop of Auto Spare Parts under the name and style of *'Baba Haridass Spare Part and Repairing Centre'* Sonepat Road, Rohtak and Sandeep was working as a Diesel Mechanic at his repairing centre at a monthly salary of ₹12,000/- w.e.f. 01.05.2008 to 30.10.2011. He also produced on record salary certificate Ex. P5 to corroborate his oral testimony. It has further been submitted that the Tribunal has not allowed benefit of future prospects and compensation awarded under conventional heads requires re-look and enhancement.

Counsel for the respondent-Insurance Company, on the contrary, has submitted that there is no documentary evidence to corroborate statement of Sanjay PW3 that the deceased was working as a Diesel Mechanic at a monthly salary of ₹12,000/-. PW3 Sanjay has also not produced any documentary evidence that he is running a business of Auto Spare Parts under the name and style *'Baba Haridass Spare Part and Repairing Centre'*. He has supported the award passed by the Tribunal.

I have heard counsel for the parties, perused the paper book particularly the award passed by the Tribunal.

Sanjay PW3 has produced salary certificate in respect of deceased Sandeep but he has not produced any supportive documents that either he is running business of Auto Spare Parts and Repairing Centre or the deceased was working as a Diesel Mechanic on said repairing centre. There is nothing on record to suggest that any payment was made by Sanjay to Sandeep through banking process or Sanjay filed any income tax return

Kanchan
2016.10.05 16:07
I attest to the accuracy and
authenticity of this document
Chandigarh

with regard to his business income showing payment of salary to his workers or to Sandeep. The Tribunal has an obligation to assess just, reasonable and equitable compensation to make good the loss for the wrong done as the money can do. Compensation cannot be a bonanza or a source of profit. This Court is not oblivious of the fact that no amount of money can be a substitute for beautiful human life but at the same time, the claimants generally have the tendency to inflate figures of income of the deceased to get higher compensation. Taking a cumulative view of the facts and circumstances of the present case in the light of aforesaid observations, I do not find any reason to interfere in the assessment of income by the Tribunal.

The appellants shall be entitled to benefit of future prospects to the extent of 50%. Loss of dependency, after deducting 1/4th for personal expenses and applying a multiplier of 18, comes to ₹4500x12x18 =9,72,000 + 4,86,000 (50%) = 14,58,000/-.

Smt. Seema, widow of the deceased shall be entitled to an amount of ₹1,00,000/- towards loss of consortium, Laxay minor son of the deceased is awarded an amount of ₹1,00,000/- and Smt. Geeta, mother of the deceased ₹50,000/- for loss of love and affection. The appellants shall be entitled to an amount of ₹25,000/- each for expenses on funeral and loss of estate. The total compensation comes to ₹17,58,000/- (14,58,000 + 1,00,000 + 1,00,000 + 50,000 + 25,000 +25,000) and the enhanced compensation is ₹7,71,000/- payable with interest @ 7.5% per annum from the date of petition till realization.

Kanchan
2016.10.05 16:07
I attest to the accuracy and
authenticity of this document
Chandigarh

The enhanced compensation shall be payable to widow to the extent of 30% and the remaining 70% shall be payable to Laxay, minor son of the deceased. Compensation awarded to the minor shall be deposited in a Fixed Deposit Receipt in a nationalized Bank payable to him on attaining the age of majority. The amount of interest accruing on the FDR shall be payable to mother of the minor to meet expenses on his education and living. Compensation awarded to widow of the deceased shall be deposited in a Fixed Deposit Receipt for a period of three years.

Disposed of in the aforesaid terms.

September 09, 2016. **(REKHA MITTAL)**
kanchan **JUDGE**

Whether speaking/reasoned? **Yes/No**

Whether reportable? **Yes/No**

Kanchan
2016.10.05 16:07
I attest to the accuracy and
authenticity of this document
Chandigarh