IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.10564 of 2014
Decided on: 01.12.2016

Rani Devi and others

....Appellants

Versus

Darshan Singh and others

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Vinod K. Kanwal, Advocate
for the appellants.

Mr. Rajbir Singh, Advocate
for Mr. Sanjeev Goyal, Advocate
for respondent No.3.

REKHA MITTAL, J. (Oral)

Smt. Rani Devi and others are in appeal seeking enhancement of compensation in regard to death of Dharam Singh @ Dharma in a motor vehicular accident that took place on 27.02.2012.

The Tribunal assessed income of the deceased at Rs.5,400/- per month, applied a multiplier of 15 and deducted 1/4th for personal expenses to compute loss of dependency at Rs.7,29,000/-. In addition, an amount of Rs.10,000/- each for funeral expenses and consortium has been awarded making total compensation to Rs.7,49,000/- payable with interest @ 7% per annum from the date of petition till realization.

Counsel for the appellants would contend that the deceased was working as a Mason and in the year 2012, daily wage of a skilled person was more than Rs.200/- per day, therefore, income of the deceased is liable to be enhanced. The Tribunal has not allowed benefit of future prospects to the extent of 50% and compensation awarded under conventional heads needs enhancement.

Counsel for the insurance company, on the contrary, has disputed that the deceased was 36 years old. It is argued that the deceased left behind three children aged 19 years, 18 years and 13 years. Further submitted that taking into consideration age of the widow, the deceased would be more than 40 years of age at the time of occurrence.

I have heard counsel for the parties and perused the paperbook particularly the award passed by the Tribunal.

Rani Devi, widow of the deceased has recorded her age to be 35 years. In the post-mortem report age of the deceased is 36 years. The deceased belonged to a lower middle class family where ordinarily marriage of boys and girls is performed at a younger age. Taking into consideration the materials on record, I do not find any reason to interfere in assessment of age of the deceased by the Tribunal and further adopting a multiplier of 15 by taking him to be in the age bracket of 36 to 40 years. The claimants shall be entitled to benefit of increase in income for future prospects to the extent of 50%. In this manner, loss of dependency comes to ***Rs.10,93,500/-*** (Rs.5,400/- x 12 x 15 = Rs.9,72,000/- + Rs.4,86,000/- (50% for future prospects) = Rs.14,58,000/- – Rs.3,64,500/- (1/4th deduction towards personal expenses).

Under conventional heads, an amount of ***Rs.1,00,000/-*** for loss of consortium to the widow, ***Rs.2,25,000/-*** in equal share for loss of love and affection, guidance and care to the children, ***Rs.25,000/- each*** for expenses on funeral and loss of estate is awarded. The total compensation comes to Rs.14,68,500/- and the enhanced compensation is ***Rs.7,19,500/-*** (Rs.14,68,500/- – Rs.7,49,000/-) payable with interest @ 7.5% per annum from the date of petition till realization and shall be shared by the widow and minor son of the deceased in equal share except the amount for loss of love and affection awarded to Sulochana and Manjeet.

The enhanced compensation payable to the minor shall be deposited in a fixed deposit in a nationalized bank for a period of three years or till he attains the age of majority whichever is later. The interest accrued on the amount of FDR shall be payable to mother of the child for meeting expenses on his education and living.

The appeal is partly allowed in the aforesaid terms.

01.12.2016 **(REKHA MITTAL)**
yakub **JUDGE**

Whether speaking/reasoned Yes/No

Whether reportable: Yes/No