In the High Court of Punjab and Haryana at Chandigarh

FAO No. 10582 of 2014
Date of Decision: 17.10.2016

Mohinder Kaur and others

---Appellants

versus

Avtar Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr.D.K.Prajapati, Advocate
for the appellants

Mr. R.K.Bashamboo, Advocate
for respondent No. 3

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Rekha Mittal, J.

The claimants are in appeal seeking enhancement of compensation in regard to death of Harjinder Singh in a motor vehicular accident that took place on 2.2.2010.

The Motor Accidents Claims Tribunal, Jalandhar (in short "the Tribunal") assessed income of the deceased at Rs. 5000/- per month, deducted 1/4th for his personal and living expenses, adopted a multiplier of 17 to compute loss of dependency at Rs. 7,65,000/-. In addition, an amount of Rs. 5000/- each towards funeral expenses, loss of love and affection to each of the children and consortium to the widow was allowed making total compensation at Rs. 7,85,000/-.

Counsel for the claimants has submitted that the Tribunal has not allowed benefit of future prospects in the light of judgment ***Rajesh and others vs. Rajbir Singh and others 2013(3) RCR (Civil) 170.*** Compensation awarded under conventional heads needs enhancement.

Counsel for the insurance company, on the contrary, has submitted that as the matter with regard to future prospects is pending before a Larger Bench of Hon'ble the Supreme Court of India in ***National Insurance Co. Limited vs. Pushpa and others*** in a petition for Special Leave to Appeal (Civil)- 8058 of 2014, the claimants cannot be allowed the said benefit.

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

Counsel for the appellants has not disputed assessment in regard to income of the deceased, deduction for personal expenses and multiplier adopted. The same are ordered to be affirmed. The claimants are entitled to increase in income for future prospects to the extent of 50% and the mere fact that a reference is pending before a Larger Bench is not sufficient to deny the said benefit till the judgment ***Rajesh and others' case (supra)*** is set aside or varied. In this view of the matter, compensation for loss of dependency comes to Rs. 7,65,000 +3,82,500/- (50% future prospects) =**Rs. 11,47,500/-**.

Under conventional heads, the claimants are awarded an amount of **Rs. 1,00,000/-** for loss of consortium, **Rs. 1,50,000/-** in equal share to the children, **Rs. 50,000/-** to the mother for loss of love and affection and **Rs. 25,000/-** each for expenses on funeral and loss of estate. The total compensation is Rs. 14,97,500/- and the enhanced compensation is Rs. 7,12,500/- (Rs. 14,97,500 – 7,85,000)payable with interest @ 7.5% per annum from the date of petition till realization. The enhanced compensation except Rs. 1,00,000/- payable to the widow for consortium shall be payable to children of the deceased in equal share , to be deposited in FDRs payable on their attaining the age of majority. The interest accrued on FDRs shall be payable to grand mother of the children for meeting expense on their living and education. The claimants shall not be entitled to raise any loan against the FDRs.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

17.10.2016
PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No