In the High Court of Punjab and Haryana at Chandigarh

Date of Decision:29.8.2016

FAO No. 1458 of 2014

Amarjit Kaur and others

---Appellants

vs.

Parminder Singh and others

---Respondents

FAO No. 3728 of 2013

ICICI Lombard General Insurance Company Limited

---Appellant

vs.

Amarjit Kaur and others

---Respondents

Coram: **Hon'ble Mrs. Justice Rekha Mittal**

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Present: Mr.Sham Lal Bhalla, Advocate
for the appellants in FAO No. 1458 of 2014
for the respondents in FAO No. 3728 of 2013
Mr. Sanjeev Goyal, Advocate
for the insurance company in both the appeals

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Rekha Mittal, J.

This order will dispose of FAO Nos. 1458 of 2014 and 3728 of

2013 as these have emerged out of the same award dated 8.5.2013 passed by the Motor Accident Claims Tribunal, Fatehgarh Sahib (in short "the Tribunal"). For brevity, the facts are taken from FAO No. 1458 of 2014.

Amarjit Kaur and others were awarded compensation to the tune of Rs. 13,20,000/-payable with interest at the rate of 9% per annum from the date of filing of the petition till realization on account of death of Nirbhai Singh in a motor vehicular accident that took place on 3.11.2011. The Tribunal assessed income of the deceased at Rs. 15,000/-per month. A multiplier of 11 was applied and deduction to the extent of 1/3rd towards personal expenses was made to compute loss of dependency to the tune of Rs. 13,20,000/-.

The parties shall be referred to as the claimants and the insurance company for facility of reference.

Counsel for the insurance company has submitted that land owned by the deceased has been inherited by his legal heirs and Malkiat Singh PW has admitted that land has been mutated in the names of legal heirs of Nirbhai Singh. The buffaloes kept by the deceased for carrying the business of dairy farming are also left with the family for the purpose of said business. The deceased had left behind three major and married sons (claimants No. 2 to 4), therefore, the Tribunal has committed an error in assessing income of the deceased at Rs. 15,000/- per month.

Counsel for the claimants has submitted that as the deceased was owner of land in three different villages, detailed in para 12 of the award, he was required to look after the land in different villages and after his departure, the family has to employ 2-3 persons to look after that land, therefore, loss of income assessed by the Tribunal does not call for interference.

To substantiate claim for enhancement, it is argued that the Tribunal has not awarded any compensation under conventional heads and the same may be allowed in the light of judgments ***Rajesh and others vs. Rajbir Singh and others (2013)3 RCR (Civil) 170*** and ***Vimal Kanwar and others vs. Kishore Dan and others 2013(2)RCR(Civil)945***.

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

As has been noticed hereinbefore, the learned Tribunal has assessed loss of income of the deceased to the tune of Rs. 15000/- per month. With regard to loss of income from dairy farming, the Tribunal has noted that computerized account slips Ex. C1 pertaining to supply of milk by Nirbhai Singh to the dairy of Mehar Singh showing that he was supplying milk to dairy of Reliance Dairy Food Limited and earning Rs. 24000-25000/- per month. If from the said income, 50% being cost of input is deducted, monthly income from milk is Rs. 12000/- per month. However, it is not denying that buffaloes are still with the claimants and land is also with them and in this way, loss is that of management. Further held that as deceased was managing land in three different villages and at the same time running the dairy and supply 34-35 kgs milk, loss of management on account of business of dairy farming and agricultural land in three villages cannot be less than Rs. 15,000/- per month.

There is nothing on record suggestive of the fact that three sons of the deceased are engaged in any other business/activity/job. Malkiat Singh in his cross examination has stated that he was with his father in the fields on the day of occurrence. If sons of the deceased had also been working with the deceased for the purpose of looking after the land and business of dairy and the said work is being looked after by them after unfortunate demise of Nirbhai Singh without engaging any labourer etc., I find merit in contention of counsel for the insurance company that income of the deceased assessed by the learned Tribunal is on higher side. This Court is not oblivious of the fact that the Tribunal has an obligation to assess just, reasonable and equitable compensation to make good the loss as a result of the wrong, as far as money can do, by applying the well settled principle relating to award of compensation. Equally settled is that compensation is not intended to be a bonanza, largesse or source of profit. In the given circumstances of the case. I am of the considered opinion that interests of justice would be served if value of services of the deceased qua dairy farming and agricultural land is assessed at Rs. 10,000/- per month. In view of the above, loss of dependency comes to Rs. 10,000 x 12 x 11=Rs. 13,20,000/-. The claimants shall be entitled to benefit of future prospects to the extent of 15% making loss of dependency to Rs. 15,18,000/-. After deducting 1/3rd for personal expenses of the deceased, loss of dependency is calculated at Rs. 10,12,000/-.

Ms. Amarjit Kaur, widow of the deceased is awarded an amount of Rs. 1,00,000/- for loss of consortium and Ms. Kulwant Kaur (mother) is awarded Rs. 50,000/- for loss of love and affection. The claimants shall be entitled to an amount of Rs. 25,000/- each for funeral expenses and loss of estate. The total compensation is Rs. 12,12,000/-. The compensation is reduced by Rs. 1,08,000/-.

Appeals stand disposed of accordingly.

(Rekha Mittal)
Judge

29.8.2016
paramjit

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No