In the High Court of Punjab and Haryana at Chandigarh

FAO No. 3829 of 2014
Date of Decision: 17.10.2016

Krishan Kumar and another
---Appellants

versus

Smt. Kamla and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Dheeraj Narula, Advocate
for the appellants
Mr. Arun Sharma, Advocate
for Mr. Tajender K. Joshi, Advocate
for respondent No. 5

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Rekha Mittal, J.

The claimants are in appeal seeking enhancement of compensation in regard to death of Raj Kumar in a motor vehicular accident that took place on 30.10.2010 in the area of village Rangria Khera, District Sirsa.

The Motor Accidents Claims Tribunal, Sirsa (in short “the Tribunal”) assessed income of the deceased at Rs. 4000/- per month, deducted 50% for personal expenses, applied a multiplier of 18 to compute loss of dependency to the tune of Rs. 4,32,000/-. In addition, an amount of Rs. 10,000/- has been awarded for funeral expenses making total compensation to Rs. 4,42,000/-.

Counsel for the appellants has submitted that it was proved on record that the deceased was holder of diploma in Computer Hardware & Maintenance from GT Computer Hardware Engineering College Private Limited, Jaipur, therefore, his income is liable to be assessed by taking into consideration the minimum wage available to a skilled worker fixed by the State of Haryana and available in October 2010. Another submission made by counsel is that the Tribunal has not allowed benefit of future prospects and compensation awarded under conventional heads needs addition and enhancement.

Counsel for the insurance company, on the contrary, has submitted that plea of the claimants with regard to salary of the deceased at Rs. 4000/- per month from ONS Travelers , Sirsa has been accepted, therefore, the claimants cannot rely upon the minimum wage fixed by the State of Haryana. It is argued that benefit of future prospects should not be allowed as the matter is pending before a Larger Bench of Hon'ble the Supreme Court of India in view of reference made in ***National Insurance Co. Limited vs. Pushpa and others*** in a petition for Special Leave to Appeal (Civil)- 8058 of 2014

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

The claimants examined R.S.Sain, Retired Development Officer, LIC to prove that the deceased was working in the office of ONS Travelers, Sirsa at a salary of Rs. 4000/- per month. As the claimants have taken a specific plea that the deceased was earning Rs. 4000/- per month, they cannot seek assessment of income on the basis of minimum wage. The plea of the claimants that the deceased was earning Rs. 50,000/- per month from agricultural land does not find corroboration from any independent source much less documentary evidence. In this view of the matter, the claimants' plea for enhancement of income of the deceased is not justified. However, the claimants are entitled to benefit of future prospects to the extent of 50% and the said benefit cannot be denied merely because a reference is pending before a Larger Bench until the judgment ***Rajesh and others vs. Rajbir Singh and others (2013)3 RCR (Civil) 170*** passed by Hon'ble the Supreme Court is varied or set aside. In view of the above, loss of dependency comes to Rs. 3000 x 12 x 18= 6,48,000/-.

Under conventional heads, claimants are awarded an amount of Rs. 25,000/- each for funeral expenses and loss of estate and Rs. 50,000/- for loss of love and affection to mother of the deceased and the total compensation comes to Rs. 7,48,000/- and the enhanced compensation is Rs.3,06,000/- (Rs. 7,48,000 – 4,42,000) payable with interest at the rate of 7.5% per annum from the date of petition till realization. The enhanced compensation shall be payable exclusively to mother of the deceased.

Appeal stands disposed of in the aforesaid terms.

(Rekha Mittal)
Judge

17.10.2016
PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No