216 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-5648-2013(O&M)
Date of decision : 08.12.2016

Reena Devi & Ors

.... Appellants

versus

Ikram and ors. .... Respondents

CORAM : HON'BLE MRS. JUSTICE REKHA MITTAL

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Present: Ms.Swati, Advocate
for Mr. Jarnail Singh Saneta, Advocate
for the appellants.

Mr.Kamlesh, Advocate
for Mr.Parminder Singh, Advocate
for respondents No. 2 and 3.

Mr.M.B.Jain, Advocate for respondent No.3.

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REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation in regard to death of Sonu in a motor vehicular accident that took place on 27.03.2012.

The Motor Accidents Claims Tribunal, Karnal (in short "the Tribunal) assessed income of the deceased at Rs. 4000/-per month, deducted 1/4th for personal expenses, adopted multiplier of 17 to compute loss of dependency at Rs. 6,42,600/-. In addition, an amount of Rs. 5000/- for transportation and last rites and Rs. 7000/- for loss of consortium has been awarded making total compensation to Rs. 6,54,600/- payable with interest at the rate of 6% per annum from the date of petition till realisation.

Counsel for the appellants has submitted that the minimum wage fixed by the State of Haryana and available to an unskilled worker at the relevant time was Rs. 4847.17ps. 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 has submitted that as the matter with regard to future prospects is pending consideration before a larger bench of Hon'ble the Supreme Court of India, the appellants are not entitled to the said relief.

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

As per minimum wage fixed by the State of Haryana available with effect from 1.1.2011, income of the deceased is assessed at Rs. 4850/- per month. The mere fact that a reference is pending before a larger bench of the Apex Court is not sufficient to deny the benefit of future prospects. After extending benefit of future prospects to the extent of 50%, loss of dependency comes to Rs.4850 x 12 x 17= Rs. 9,89,400/-+ Rs.4,94,700/- (50% future prospects) = Rs.14,84,100/- - Rs.3,71,025/-(1/4thdeduction) Rs.11,13,075/-.

Under conventional heads, Rs. 1 lac for loss of consortium to the widow, Rs. 1.5 lacs in equal share to the minor children and Rs. 50,000/- to mother for loss of love and affection and Rs. 25,000/- each for expenses on funeral and loss of estate is awarded. The total compensation comes to Rs.14,63,075/- and the additional compensation is Rs. 8,08,475/-. The additional compensation shall carry interest at the rate of 7.5% per annum from the date of the petition till realisation, payable to minor children of the deceased in equal share except the amount of Rs. 1 lac for loss of consortium to the widow and Rs. 50,000/- for loss of love and affection to the mother. The amount falling to share of the minors would be deposited in fixed deposits in a nationalilsed bank, payable on their attaining the age of majority. The interest accruing on fixed deposits shall be payable to the mother (widow of the deceased) for meeting expenses on education and living of minor children. The claimants would not be entitled to create any charge upon FDRs.

The appeal is partly allowed in the aforesaid terms.

(REKHA MITTAL)
JUDGE

December 08, 2016
sunita

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No