IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 5627 of 2014
Date of decision: 07.12.2016

Brahmanand and others .... *Appellants*

Versus

Rajesh Kumar and others ....*Respondents*

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

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Present: Mr. Sandeep Kotla, Advocate
for the appellants

Mr. M B Jain, Advocate
for the insurance company

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Rekha Mittal, J. (Oral)

The claimants are in appeal seeking enhancement of compensation in regard to death of Smt. Dhanno Devi in a motor vehicular accident that took place on 15.04.2003.

The Tribunal assessed value of services of the deceased at Rs.2,000.00 per month and applied a multiplier of 14 to compute loss of dependency at Rs.5,04,000.00. In addition, a sum of Rs.10,000.00 for funeral expenses was awarded making total compensation to Rs.5,14,000.00.

Counsel for the appellants has submitted that compensation assessed by the Tribunal both qua loss of dependency and under conventional heads needs enhancement. It is submitted that the deceased left behind family consisting of her husband and four minor children aged 5 to 15 years.

Counsel for the insurance company has submitted that there is no justification for enhancement of income of the deceased, on the contrary, 1/4th is liable to be deducted for computing loss of dependency. In support of his contention, he has referred to judgment of Hon'ble the Supreme Court of India ***Jitendra Khimshankar Trivedi and others 2015 ACJ 708***. Further reference has been made to judgment of this Court ***Barkha Singh and others v. Virinder Singh and others, 2016 ACJ 1792***.

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

Indisputably, the deceased died at the age of 40 years leaving behind her husband and four minor children in a sudden shock. Counsel for the insurance Company has relied upon judgment of Hon'ble the Supreme Court in *Jitendra Khimshankar Trivedi's* case (supra) in order to justify assessment of value of services by the Tribunal as well as for deduction to the extent of 1/4th. In the referred authority, the accident took place on 21.09.1990 and a period of more than two decades has elapsed in between. There cannot be any denial that since 1990 till 2013, there is substantial increase in price index. Even a domestic help round the clock may not be available at a cost of Rs.6,000.00 per month when a housewife has multifarious duties to perform. In this view of the matter, value of services of the deceased is assessed at Rs.6,000.00 per month.

In *Jitendra Khimshankar Trivedi's* case (supra), no such ratio has been laid down that any deduction is to be made from notional income assessed qua service of a housewife. On the other hand, a Division Bench of this Court in ***Paramjit Singh v. Diblagh Singh alias Bagga*** (FAO 3310 of 2012 decided on 16.05.2013) has held that no such deduction is permissible from value of services of a house wife. In this view of the matter, loss of dependency is assessed at ***Rs.10,08,000.00***.

Under conventional heads, an amount of Rs.1,00,000.00 for loss of consortium to the husband, Rs.3,00,000.00 in equal share for loss of love and affection, care and guidance, security and sympathy to the minor children and Rs.25,000.00 for funeral expenses is awarded. In this manner, total compensation comes to ***Rs.14,33,000.00*** and enhanced compensation would be ***Rs.9,19,000.00***. The additional amount shall carry interest at the rate of 7.5% per annum from the date of petition till realization, payable to children of the deceased in the ratio of 20:20:30:30, except an amount of Rs.1,00,000.00 awarded to the husband for loss of consortium. The amount falling to the share of children shall be deposited in FDRs for a period of three years or till they attain the age of majority whichever is later. However, interest accruing on FDRs shall be payable to the father for meeting expenses on education and living of the children.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

07.12.2016
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No