

FAO No. 5846 of 2014

In the High Court of Punjab and Haryana at Chandigarh

FAO No. 5846 of 2014

Date of Decision:21.10.2016

Shinder Kaur and another

---Appellants

vs.

Janak Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr.J.S.Chatrath, Advocate
for the appellants

Mr. N.K.Manchanda, Advocate
for respondent Nos. 1 to 3

Ms. Sonal Datta, Advocate
for Mr. Vikas Mohan Gupta, Advocate
for respondent No. 4

Rekha Mittal, J.

The claimants are in appeal seeking enhancement of compensation in regard to death of Kushdeep Singh in a motor vehicular accident that took place on 17.2.2012.

The Motor Accidents Claims Tribunal, Mansa (in short “the Tribunal”) assessed income of the deceased at Rs. 4000/- per month, deducted 1/3rd towards personal expenses, adopted multiplier of 17 and computed loss of dependency to the tune of Rs.5,43,986.40 Paise rounded off to Rs. 5,43,986/-. In addition, the widow was awarded Rs. 1,00,000/- for loss of consortium and the claimants Rs. 25,000/- for funeral expenses and Rs. 5,000/- for loss of estate making total compensation to the tune of Rs. 6,73,986/- payable with interest @ 7.5% per annum from the date of petition till realization.

Counsel for the appellants has submitted that the deceased was a diploma holder in computer and copy of the certificate is Ex. P4. It is argued that in view of educational qualification of the deceased, his income is liable to be assessed at a higher rate. In this context, counsel has relied upon judgment of this Court **Santosh Kumari and others vs. Purshotam Singh and others 2014(23) RCR(Civil) 840** wherein income of the deceased who was a student of IInd year of three years diploma of Electric Engineering and met with an accident in the year 2005, was assessed at Rs. 7000/- per month. Another submission made by counsel is that the

claimants are entitled to benefit of future prospects to the extent of 50% as the deceased was 26 years of age. In addition, mother of the deceased is entitled to compensation for loss of love and affection.

Counsel for respondent No. 4, on the contrary, would urge that Manpreet Kaur widow of the deceased appeared in the witness box and candidly admitted that her husband Khushdeep Singh was not doing any job and he was waiting for getting some job. She has supported the award passed by the Tribunal with the plea that no addition in compensation assessed by the Tribunal is justified.

Counsel for respondent Nos. 1 to 3 has echoed the arguments advanced by counsel for respondent No. 4.

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

It is an undisputed position of the case that the deceased was a diploma holder in computer and passed away in the year 2012. Keeping in view educational qualification of the deceased coupled with the minimum wage of a skilled worker and taking a clue from the judgment of this Court **Santosh Kumari and others' case (supra)**, income of the deceased is

assessed at Rs. 8000/- per month. The claimants are allowed benefit of future prospects to the extent of 50%. In this manner, compensation for loss of dependency comes to Rs. $12000 \times 12 \times 17 = \text{Rs. } 24,48,000 - 8,16,000$ (1/3rd deducted)= 16,32,000/-.

The Tribunal has awarded an amount of Rs. 1,30,000/- under conventional heads. In addition, mother of the deceased is awarded an amount of Rs. 50,000/- for loss of love and affection and claimants Rs. 25,000/- for loss of estate. The total compensation comes to Rs. 18,32,000/- (16,32,000 + 1,30,000 + 50,000 + 20,000 (25000-5000)) and the enhanced compensation is Rs. 11,58,014/- (Rs. 18,32,000 - 6,73,986), payable to mother and widow of the deceased in the ratio of 80: 20 with interest at the rate of 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

21.10.2016
paramjit

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