

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

-.-

FAO 7490 of 2014 (O&M)
Date of decision: 11.11.2016

Krishna and others

..... Appellants

Versus

Maninder Singh and others

..... Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. R K Saini, Advocate
for the appellants

None for respondents No. 1 and 2

Mr. D P Gupta, Advocate
for respondent No. 3

-.-

Rekha Mittal, J. Oral)

The claimants are in appeal seeking enhancement of compensation in regard to death of Vinod Kumar in a motor vehicular accident that took place on 01.05.2011.

The Tribunal assessed income of the deceased at Rs.5000.00 per month, allowed increase to the extent of 50% for future prospects, deducted 1/4th for personal and living expenses and applied multiplier of 16 to compute loss of dependency to the tune of Rs.10,80,000.00. In addition, an amount of Rs.1,00,000.00 for loss of consortium, Rs.1,00,000.00 for loss of care and guidance for minor children and Rs.25,000.00 for funeral expenses has been awarded, making total compensation to Rs.13,05,000.00.

Counsel for the claimants has submitted that the deceased was a

Carpenter and he was issued a trade competency certificate by Construction Industry Development Council with regard to his having passed Construction Trade Competency examination held in April 2008 (Ex. P2). The claimants examined Sushil Kumar (PW3) to prove that the deceased was working as a Carpenter with M/s Elle Arts and Crafts Company at a salary of Rs.15,000.00 per month. Counsel has pressed into service the documents marked in statement of Sushil Kumar (PW3) for seeking enhancement of income of the deceased. It has further been argued that compensation awarded under conventional heads needs addition.

Counsel for the insurance company, on the contrary, has urged that the Tribunal, on a detailed consideration of statement of Sushil Kumar (PW3) has rightly refused to rely upon his testimony and the documents marked A1 to A17 with regard to his employment with Elle Arts and Crafts Company. It is further submitted that the Tribunal has already awarded adequate compensation under conventional heads.

There is no representation on behalf of respondent No. 1 and 2 who were earlier being represented by Shri Mandeep Singh Khillan, Advocate.

I have heard counsel for the parties, perused the paper book and the records.

The learned Tribunal has assessed income of the deceased at Rs.5,000.00 per month. Perusal of the notification issued by the State of Haryana with regard to minimum wage available to an unskilled, semi skilled, skilled and fully skilled worker would indicate that minimum wage for a fully skilled person, at the relevant time, was not more than Rs.5,000.00. The learned Tribunal, by taking into consideration the facts

elicited in cross examination of Shri Sushil Kumar (PW3) has rightly refused to rely upon his testimony with regard to employment of the deceased with Elle Arts and Crafts Company, Karnal. In this view of the matter, there is no justification for enhancing income of the deceased viz-a-viz what has been assessed by the Tribunal.

The Tribunal has awarded Rs.1,00,000.00 for loss of care and guidance for the minor children. The deceased left behind two minor sons namely Harsh and Helan. They are awarded an additional amount of Rs.50,000.00 for loss of love and affection of their father. The claimants shall be entitled to Rs.25,000.00 for loss of estate. The mother of the deceased is awarded a sum of Rs.50,000.00 for loss of love and affection. The additional amount of Rs.1,25,000.00 shall be payable with interest at the rate of 7.5% per annum from the date of petition till realization to minor children in equal shares which shall be deposited in fixed deposit receipts in a nationalized Bank payable on their attaining the age of majority.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

11.11.2016
mohan bimbura

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