IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 9163 of 2014
Date of decision: 14.12.2016

Hardial Singh and another .... *Appellants*

Versus

Kulwinder Singh and others ....*Respondents*

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

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Present: Mr. Sunil Kaushik,Advocate
for the appellants

Mr. Lalit Garg, Advocate
for the Insurance company

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Rekha Mittal, J.

The claimants are in appeal seeking enhancement of compensation in regard to death of Shamsher Singh son of Hardial Singh in a motor vehicular accident that took place on 24.03.2010.

The Tribunal assessed income of the deceased at Rs.3,500.00 per month, deducted 1/3rd for personal expenses and applied a multiplier of 14 to compute loss of dependency at Rs.3,92,000.00. In addition, a sum of Rs.5,000.00 each for loss of consortium and funeral expenses was awarded making total compensation to Rs.4,02,000.00.

Counsel for the appellants has submitted that the deceased was working as a truck driver with Nishan Singh and was earning Rs.6000.00 per month, therefore, income of the deceased is liable to be enhanced. The Tribunal has not allowed benefit of increase in income for future prospects and adopted a multiplier as per age of the parents in place of age of the deceased. Another submission made by counsel is that compensation awarded under conventional heads needs enhancement.

Counsel for the insurance company, on the contrary, has supported the award and submits that claimants may be allowed reasonable amount under conventional heads. It has also been argued that the Tribunal has wrongly awarded a sum of Rs.5,000.00 towards loss of consortium which is required to be deducted from total compensation.

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

The parents of Shamsher Singh, an unmarried boy filed the application for compensation. As per the claimants, the deceased was working as a truck driver and earning Rs.6,000.00 per month. However, no documentary evidence was produced in this regard and as such the Tribunal has taken his monthly salary at Rs.3,500.00. Taking into consideration minimum wage of an unskilled worker fixed by the State of Punjab and available at the relevant time, monthly salary of the deceased is assessed at Rs.3,555.00. In the light of judgment of Hon'ble the Apex Court in ***Rajesh and others v. Rajbir Singh and others 2013 (3) R.C.R. (Civil) 170,*** benefit of future prospects to the extent of 50% is admissible in the circumstances. Counsel for the Insurance Company has not disputed that admissible multiplier would be 18 in place of 14 in the present scenario. The claimants are not entitled to Rs.5,000.00, awarded by the Tribunal towards loss of consortium. However, admissible deduction would be 50% in place of 1/3rd as the claimants are the parents of an unmarried boy and there are no special circumstances to deviate from the formula laid down in ***Sarla Verma v. Delhi Transport Corporation, (2009) 6 SCC 121.***

In view of the above, loss of dependency is calculated at **Rs.5,75,100.00** *i.e.* 3,550.00 x 12 x 18 + 3,83,400.00 (50% future prospects) - 5,75,100.00 (50% deductions). Under conventional heads, a sum of Rs.50,000.00 for loss of love and affection to mother and Rs.25,000.00 each for expenses on funeral and loss of estate is awarded. The total compensation comes to **Rs.6,70,100.00** and enhanced compensation is **Rs.2,68,100.00**, payable with interest at the rate of 7.5% per annum from the date of petition till realization, exclusively to mother of the deceased. It is, however clarified that the claimants shall not be entitled to interest for the period of delay i.e. 343 days.

Allowed in the aforesaid terms.

(Rekha Mittal)
Judge

14.12.2016
mohan bimbra

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