In the High Court of Punjab and Haryana at Chandigarh

FAO No. 9749 of 2014(O&M)
Date of Decision: 12.12.2016

Charanjit Kaur and others

---Appellants

versus

Nazam Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Aayush Gupta, Advocate
for the appellants

Mr. R.K.Bashamboo, Advocate
for respondent No. 3

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Rekha Mittal, J.

The claimants are in appeal seeking enhancement of compensation in regard to death of Sukhminder Singh in a motor vehicular accident that took place on 21.1.2011.

The Motor Accidents Claims Tribunal, Ludhiana (in short "the

Tribunal") assessed income of the deceased at Rs. 14,711/- per month, added 30% towards future prospects, deducted 1/3rd for personal expenses, applied a multiplier of 14 and computed loss of dependency to the tune of Rs. 21,42,067/-. In addition, an amount of Rs. 5000/- each for loss of dependence, loss of consortium and funeral expenses has been awarded making total compensation to Rs. 21,57,067/-.

Counsel for the claimants would submit that the deceased was an employee of Purian Cooperative Agricultural Service Society Limited at a monthly salary of Rs. 16,322/- paid in January 2011. The claimants examined Secretary of the society, proved service book Ex. PW4/B and salary bill Ex. PW4/C sufficient to establish employment and salary of the deceased at the time of death. The Tribunal without assigning any reason has assessed his less salary at Rs. 14,711/-. Compensation awarded under conventional heads also needs enhancement.

Counsel for the insurance company has supported the findings of the Tribunal qua loss of dependency but has submitted that under conventional heads, reasonable amountn may be allowed.

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

Counsel for the insurance company has not disputed correctness and authenticity of statement of Sukhwinder Singh CW-3 and the documents produced by the witness clearly proving that salary of the deceased for the month of December 2010 was Rs. 16,322/-. As has been rightly argued by counsel for the claimants, the learned Tribunal has not recorded any reason for taking income of the deceased at Rs. 14,711/- in place of Rs. 16,322/-. Taking into consideration salary of the deceased at the relevant time as proved by a witness from the cooperative society, loss of dependency comes to Rs. 16,322 x 12 x14= 27,42,096/- + 8,22,629/- (30%) = Rs.35,64,725 -11,88,241(1/3rd)= Rs.23,76,484/-.

Under conventional heads, an amount of Rs. 1,00,000/- for loss of consortium to the widow, Rs. 1.5 lakhs in equal share for loss of love and affection to the children, Rs. 25,000/- each for expense on funeral and loss of estate is awarded. An amount of Rs. 5,000/- awarded by the Tribunal for loss of dependence is ordered to be set aside. In this manner, total compensation comes to Rs. 26,76,484/- and the enhanced compensation is Rs. 5,19,417/-. The enhanced compensation shall carry interest @ 7.5% per annum from the date of petition till realization to be shared by the claimants in equal share. The amount falling to share of the children shall be deposited in a fixed deposit receipt for a period of three years or till they attain the age of majority whichever is later; share of the widow to be deposited in a fixed deposit receipt for a period of three years. The claimants shall not be entitled to raise any loan against the FDRs.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

12.12.2016
PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No