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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-4807-2003
Date of decision : 16.11.2017

Farimana

... Appellant(s)

Versus

Subhu @ Subedar and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Partap Singh, Advocate
for the appellant.

Mr. Suvir Dewan, Advocate
for respondent No.4/United India Insurance Company.

Mr. Anil Ghanghas, Advocate for
Mr. Sunil Pawar, Advocate
for respondent Nos.5 and 6.

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AMIT RAWAL, J. (ORAL)

The appellant-claimant is the widow of the deceased-Sahun, who unfortunately died in a vehicular accident occurred on 28.05.1999 at about 9.30 a.m., while doing labour work on a truck bearing Registration No.HR-26-A 2793, driven by respondent No.1 and owned by respondent No.2 and insured with respondent No.4. Owing to the aforementioned accident, he succumbed to injuries. The claim petition was filed by the widow, parents, three brothers and three sisters claiming the compensation on account of his demise. Learned Motor Accident Claims Tribunal, Gurgaon (in short 'the Tribunal') has awarded the compensation to the tune of ₹ 2,87,600/- by giving recovery rights to the Insurance Company on the premise that the driver was not holding a valid and effective licence on the date of the accident i.e. 28.05.1999. Remaining claimants i.e. Claimant Nos.5 to 10, had not given any compensation.

Learned counsel for the appellant-widow submits that the compensation awarded by the learned Tribunal is on lower side as the income of the deceased @ ₹ 2,100/- per month, is too meagre and the multiplier of 18 should have been applied instead of 17. No compensation under the various consolidated heads have been awarded, much less, future prospects, thus, there is a scope of enhancement.

Though, service upon respondent Nos.1 and 2 had not been effected, but equally so, they have not come forward to challenge the recovery rights, perhaps they are not interested in pursuing the matter and accordingly, I proceed to decide the matter on merits.

Learned counsel appearing on behalf of respondent Nos.5 & 6/parents submits that widow, during the pendency of the appeal, had remarried and therefore, she was not entitled to the compensation.

Per contra, Mr. Suvir Diwan, learned counsel appearing on behalf of respondent No.4/Insurance Company submits that there is no likelihood of increase of the compensation except multiplier, much less, future prospects as no established proof of income of the deceased had been placed or proved on record.

I have heard the learned counsel for the parties and appraised the paper book and of the view that there are chances of enhancement of compensation as admittedly the income as per minimum wage of the labourer at the time of accident, was ₹ 2500/- per month. Accordingly, I will take the income of the deceased as ₹ 2,500/- and apply a deduction of

1/3rd. I will take the multiplier of 18 instead of 17. I also add 40% future prospects and grant an amount of ₹ 70,000/- under various conventional heads as per the latest judgment dated 31.10.2017 rendered by Hon'ble the Supreme Court in ***SLP (Civil) No.25590 of 2014*** titled as ***"National Insurance Company Ltd. V/s Pranay Sethi and others".*** The various heads of claim are tabulated as under:-

Sr. No.	**Heads of claim**	**Amount (₹)**
1	Income	2500
2	Future prospects 40%	1000
3	Less Deduction (1/3rd)	1166
4	Multiplicand (annualized by multiplying 12)	28008 (2334x12)
5	Multiplier	18
6	Loss of dependence	504144
7	Loss of Consortium	40000
8	Loss to estate	15000
9	Funeral expenses	15000
	Total	**5,74,144/-**

The total compensation payable shall be ₹ **5,74,144/-**. The amount in excess over what has already been provided by the Tribunal shall also attract interest @ 6% from the date of filing of the appeal till the date of realization.

The findings of learned Tribunal viz-a-viz grant of recovery rights are upheld. The amount in the form of Fixed Deposit, already deposited, if not matured and encased by the claimants, be encashed in favour of the Wife as well as parents in the equal ratio.

The Insurance Company/respondent No.4 is directed to pay the amount of enhanced compensation within a period of three months from the date of the receipt of the certified copy of the order, failing which, it entails the further interest @ 12%.

Resultantly, the appeal is allowed and the award of the Tribunal is modified in the aforesaid terms.

(AMIT RAWAL)
JUDGE

16.11.2017
Yogesh Sharma

Whether speaking/reasoned **[✓ Yes]/ No**

Whether Reportable **Yes/ [✓ No]**