Paramjit Kaur Saini
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In the High Court of Punjab and Haryana at Chandigarh

FAO- 3847 of 2001
Date of Decision: 14.12.2017

Harmukhi and others

---Appellants

versus

Khurshid and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: None for the appellants

Mr. Lalit Garg, Advocate,
for the insurance company

***

Rekha Mittal, J.

The claimants are in appeal seeking enhancement of compensation on account of death of Dharamvir in a motor vehicular accident that took place on 27.11.1997.

The Motor Accidents Claims Tribunal, Faridabad (in short "the Tribunal") has allowed compensation to the tune of Rs. 1,15,200/-, detailed hereunder:-

Monthly income of the deceased	Rs. 900/-
Deduction for personal expense	1/3rd
Multiplier	16
Loss of dependency	600 x 12 x16=1,15,200

Counsel for the insurance company would urge that adequate compensation has been assessed by the Tribunal, therefore, there is no justification for enhancement.

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There is no representation on behalf of the appellants/claimants.

The Tribunal in para 19 of the award has rejected plea of the claimants that the deceased was running a dairy but upheld their plea that he was a cultivator of land measuring 3 acres owned by him. Taking a clue from the minimum wage of an unskilled worker available at the relevant time fixed by the State of Haryana coupled with that the deceased was owner of three acres of land, therefore, family has lost his services as a cultivator, income of the deceased is assessed at Rs. 1800/- per month.

The deceased left behind his widow, two minor daughters and widowed mother and his father died during pendency of the proceedings. He was 24 years old at the time of occurrence. In the given scenario, claimants are entitled to multiplier of 18 and deduction for personal expenses to the extent of 1/4th. They are extended benefit of increase in income for future prospects to the extent of 40%. In this manner, loss of dependency comes to Rs. 1800 x12 x18 = 3,88,800 +1,55,520 (40%) =5,44,320 – 1,36,080(1/4th)=4,08,240/-.

Under conventional heads, claimants shall be entitled to following compensation in the light of judgment of Hon'ble the Supreme Court of India **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270**:-

Loss of consortium to widow	**Rs. 40,000/-**
Expenses on funeral	**Rs. 15,000/-**
Loss of estate	**Rs. 15,000/-**

The total compensation is **Rs. 4,78,240/-** and the additional amount is **Rs. 3,63,040/-**(4,78,240-1,15,200). The additional amount shall

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carry interest at the rate of 7.5% per annum from the date of petition till realization payable to widow and daughters of the deceased in the ratio 70:15:15.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

14.12.2017
PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No