IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 808 of 2001
Date of decision: 31.10.2017

Gurmit Kaur and others .... *Appellants*

Versus

Anrik Singh and others ....*Respondents*

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

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Present: Mr. J S Verka, Advocate
for the appellants

Mr. Paul S Saini, Advocate
for the Insurance Company

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Rekha Mittal, J. (Oral)

The claimants are in appeal seeking enhancement of compensation in regard to death of Avtar Singh in a motor vehicular accident that took place on 10.10.1994.

The Tribunal assessed income of the deceased at Rs.3,000.00 per month, deducted 1/3rd for personal expenses and applied multiplier of 14 to compute loss of dependency to the tune of Rs.3,36,000.00, held to be payable with interest at the rate of 12% per annum from the date of application till payment.

Counsel for the appellants has submitted that the Tribunal has neither allowed benefit of increase in income for future prospectus nor awarded any compensation under conventional heads.

Counsel representing the insurance company, on the contrary, would urge that there is no evidence adduced by the claimants to prove income of the deceased. It is further argued that even if the deceased was working as a Driver on Truck, his income on the basis of minimum wage of a skilled worker cannot be more than Rs.1,500.00 per month at the relevant time, therefore, the claimants cannot assert their right for addition in income on the basis of future prospectus. In addition, it is argued that the matter with regard to future prospects is pending consideration before a larger Bench of Hon'ble Supreme Court of India in view reference made in ***National Insurance Company Limited v. Pushpa*** *(SLP (c) No. 16735 of 2014, decided on 02.07.2014)* and the observations made by the Apex Court in ***Shashikala and others v. Gangalakshmamma and another, 2015 ACJ 1239.***

I have heard Counsel for the parties and perused the paper book particularly the award impugned.

The Tribunal has assessed income of the deceased at Rs.3,000.00 per month. There is no evidence adduced by the claimants to prove income of the deceased.

Counsel for the insurance company is right in his submissions that if income of the deceased is assessed on the basis of minimum wage of a skilled worker plus addition qua future prospectus, the same would not be more than Rs.3,000.00 per month. Under the circumstances, there is no justification for increase in income of the deceased for the purpose of loss of dependency.

The application for compensation has been filed by the widow, son and minor daughter of deceased Avtar Singh, held entitled to get compensation. The Tribunal has rightly allowed deduction for personal expenses to the extent of 1/3rd. The Tribunal has determined age of the deceased at 40 years. There is no clear evidence on record with regard to his date of birth. By considering the deceased to be in age bracket of 41-45, admissible multiplier would be 14, rightly allowed by the Tribunal. In this view of the matter, no interference in findings of the Tribunal qua assessment of compensation for loss of dependency is warranted.

The Tribunal has not allowed any compensation under conventional heads. The claimants shall be entitled to following compensation under conventional heads:-

Loss of consortium to widow	30,000.00
Expenses on funeral and last rites	10,000.00
Loss of estate	10,000.00

The additional amount of Rs.50,000.00, payable to widow of the deceased, shall carry interest at the rate of 7.5% per annum from the date of petition till payment.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

31.10.2017
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No