IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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IOIN FAO 746 of 2004
Date of decision: 01.09.2017

Kiran Singh and others .... *Appellants*

Versus

Madan Lal and others ....*Respondents*

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

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Present: Mr. Sudhir Aggarwal, Advocate
for the appellants

Mr. R N Singal, Advocate
for respondent No. 3

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Rekha Mittal, J. (Oral)

The claimants are in appeal seeking enhancement of compensation in regard to death of Ajit Kumar Singh in a motor vehicular accident that took place on 02.03.1999.

The Motor Accidents Claims Tribunal, Gurgaon (in short, 'the Tribunal') assessed income of the deceased at Rs.5,000.00 per month, deducted 1/3rd for personal expenses and adopted multiplier of 17 to compute loss of dependency at Rs.6,73,200.00 (correct calculation comes to Rs.6,80,000). In addition, Rs.6,000.00 on account of funeral expenses and transportation of the body body was awarded making total compensation to the tune of Rs.6,79,200.00.

Counsel for the appellants would contend that the Tribunal has wrongly allowed deduction of 1/3rd in place of 1/4th. The Tribunal has not granted benefit of increase in income for future prospects. Compensation awarded under conventional heads needs re-look and enhancement.

Counsel representing the insurance company would urge that the claimants have failed to adduce tangible and convincing evidence on record to prove income of the deceased at Rs.5,000.00 per month. Further argued that in the year 1999, minimum wage admissible to a highly qualified person was approximately Rs.3,000.00 per month. It is further submitted that compensation under conventional heads may be allowed but keeping in view the fact that occurrence pertains to the year 1999.

Counsel for the appellants, in reply, would state that the claimants do not press for increase in income for future prospects and compensation may be assessed by taking into account income of the deceased at Rs.5,000.00 per month.

There is no denial that the deceased was M.Sc. (Agriculture). Counsel for the claimants has forgone right of the claimants to increase in income for future prospects. Under the circumstances, income of the deceased without any addition would be taken at Rs.5,000.00 per month for the purpose of computing loss of dependency.

The Tribunal has allowed deduction of 1/3rd for personal expenses. The deceased left behind his widow, two minor children and widowed mother, held entitled to get compensation. In the light of enunciation laid down by the Apex Court in ***Sarla Verma and others v. Delhi Transport Corporation and another 2009(3) R.C.R. (Civil) 77,*** admissible deduction would be 1/4th. The multiplier adopted by the Tribunal is affirmed. Accordingly, loss of dependency comes to **Rs.7,65,000.00** (5000X12x17 (10,20,000) – 2,55,000 (1/4th deductions) .

Under conventional heads, an amount of Rs.6,000.00 for funeral expenses awarded by the Tribunal is affirmed. In addition, an amount of Rs.50,000.00 for loss of consortium to widow, Rs.1,00,000.00 for loss of love and affection to minor children and Rs.25,000.00 for loss of love and affection to mother and Rs.20,000.00 for loss of estate is allowed.

In this manner, total compensation comes to **Rs.9,66,000.00** (7,65,000+6,000+50,000+1,00,000+,25,000+20,000) and additional amount is Rs.**2,86,800.00** (9,66,000-6,79,200) which shall carry interest at the rate of 7% per annum from the date of petition till realization, payable exclusively to widow of the deceased except the amount allowed for loss of love and affection to children and mother of the deceased.

Appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

01.09.2017
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No