IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2581 of 2005 (O&M)
Date of Decision: 13.12.2017

Shashi Kaushal

...Appellant(s)

Versus

G.M. Haryana Roadways Ambala Depot and others

...Respondent(s)

CORAM:-HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Ravi Gakhar, Advocate
for the appellant.

Mr. R.K. Singla, A.A.G., Haryana,

Mrs. Shamsher Kaur, Advocate
for respondent No.3-Insurance Company.

Mr. Amit Kundra, Advocate for
Mr. Navin Kapur, Advocate
for respondent No.5-Insurance company.

ANITA CHAUDHRY, J.

CM-14107-CII-2014

Application is allowed as prayed for and the main case is taken up on Board for hearing.

FAO No.2581 of 2005

This appeal is by the claimant seeking enhancement.

Madan Lal was 45 years old and had died in an accident which occurred on 10.04.2001. The Tribunal had assessed the income at Rs.2400/- per month, made a deduction of $1/3^{rd}$ towards personal expenses and applied the multiplier of 13. Rs.10,000/- was awarded for last rites, loss of consortium and other conventional heads and award of Rs.2,40,600/- was passed.

The submission on behalf of the appellant is that the Apex Court has settled the issue of future prospects and an addition be made towards future prospects and wrong multiplier was applied and it should be 14.

The claimants did not lead any evidence with respect to the income. Claimants have pleaded that the deceased was running a Kiryana shop but the Tribunal dealt with the issue noting the evidence and had observed that he did not have a sale tax number. He was not maintaining any record. No amount was being deposited in the account. There was no evidence of purchases made. The Tribunal had taken the income which was higher than the minimum wages and I would not make any change in the income. Taking the income at Rs.2400/- and making an addition of 25%, the income would be Rs.3000/- The claimant is only the widow, therefore, deduction would be ½ (50%) and the compensation would be 1500x12x14=Rs.2,52,000/-.

A submission was made that the conventional amount should be allowed as per '***National Insurance Company Ltd. Vs. Pranay Sethi and others (SLP (Civil) No.25590 of 2014)'***. The counsel for the Insurance Company had argued that the amount which is being allowed in 2017 cannot be allowed for an accident which had taken place in 2001. The argument on behalf of the appellant on this aspect has to be rejected. The addition would be Rs.5,000/- for funeral expenses, Rs.5,000/- for loss of estate and

Rs.15,000/- for loss of consortium which raises the total to Rs.2,77,000/-. The Tribunal had allowed Rs.2,40,600/- which would be deducted and the remaining amount would be paid with interest @ 6% from April 2005. The liability to pay the amount would as directed by the Tribunal as it was a case of contributory negligence.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

December 13, 2017
ps-I

Whether Reasoned/Speaking **Yes/No**

Whether Reportable **Yes/No**