IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3384 of 2005
Date of Decision.21.08.2017

Anita and others ....Appellants

Vs

Ram Singh and another ....Respondents

Present: Mr. Pawan Sharma, Advocate
for the appellants.

Mr. R.K. Bashamboo, Advocate
for the insurance company.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The appeal is for enhancement of compensation for death of a male aged 30 years, who died in a motor accident occurred on 28.08.2001. He was pillion rider on motor cycle bearing registration No.HR-03D-0684 driven by Kuldeep Singh. They were going from Panchkula to Shahjadpur when a truck bearing registration No.HR-38C-5421, driven by respondent No.1 rashly and negligently dashed against the motor cycle, resulting into death of both the persons travelling on motor cycle. The claimants are widow, two children and parents. The deceased was stated to be working as Tracer in the office XEN Electrical Division, HUDA, Panchkula and getting salary of ₹5961/- per month.

The Tribunal, after deducting the amounts of departmental loans which the deceased had taken, took the carry home salary of ₹4417/- per month and made a deduction of 1/3rd towards personal expenses on the same. It adopted a multiplier of 17 to assess the loss of dependency as Rs.6,12,000/-. It further provided Rs.10,000/- for the loss of consortium, loss of estate and funeral expenses. In all, the total compensation was assessed as ₹6,22,000/-with interest @6% from the date of filing of the claim petition till the date of realization.

Learned counsel for the appellants submits that the Tribunal has grossly erred in taking the carry home salary as the basis for computing the compensation and the deduction of 1/4th should have been made towards personal expenses as there are four dependents, father being held not to be dependent on the deceased. The Tribunal did not provide 50% increase in salary for future prospects as the deceased was in permanent employment, much less, the amount assessed towards conventional heads is also on lower side, thus, there is definite scope of enhancement.

Per contra, learned counsel appearing on behalf of the insurance company submits that the award passed by the Tribunal is perfectly legal and justified. Moreover, the claimants did not disclose the factum of receipt of emoluments received by the claimants on death of the deceased as he was in government service, which amount is bound to be deducted from the compensation in view of the ratio decidendi culled out by Hon'ble Supreme Court in ***Reliance General Insurance Company Limited Vs. Shashi Sharma and others (2016) 9 SCC 627*** . Therefore, there is no further scope for enhancement and urges this Court for dismissal of the appeal.

I have heard learned counsel for the parties and appraised the paper book. The Tribunal has erred in taking into consideration the carry home salary of the deceased instead of gross salary, much less, did not provide 50% increase in salary as future prospects. Therefore, I will take the income of the deceased as ₹5961/- per month, provide a 50% increase in salary as future prospects and make a deduction of 1/4th towards personal expenses. I will adopt a multiplier of 17 to assess the loss of dependency as ₹13,68,024/-. I will provide ₹1 lac towards loss of consortium to the wife, ₹1 lac each to both the children and ₹50,000/- each to the parents for loss of love and affection, ₹10,000/- towards loss of estate and ₹25,000/- for funeral expenses. In total, the compensation payable shall be ₹18,03,024/-.

As regards the plea of the insurance company qua deduction of emoluments received by the claimants on account of death of deceased being a government servant, I am of the view that in the absence of any information provided by the insurance company before the Tribunal regarding any ex gratia amount or any other monetary benefit on account of death of the deceased, the ratio decidendi relied upon by the insurance company is not applicable to this case.

The enhanced amount in excess of what has already been provided by the Tribunal shall also attract interest @6% from the date of filing of the appeal till its realization. The enhanced amount shall be distributed amongst the claimants in the ratio of 2:2:2:1:1. The liability shall remain the same as has already been assessed by the Tribunal.

The award stands modified and the appeal is allowed to the above extent.

(AMIT RAWAL)
JUDGE

August 21, 2017
Pankaj*

Whether reasoned/speaking	Yes
Whether reportable	No