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

FAO No.2018 of 2007
Date of Decision.02.08.2017

Smt. Renu Sardana and others ....Appellants

Vs

Surinder Pal and others ....Respondents

Present: Mr. Ashwani Arora, Advocate
for the appellants.

Mr. D.R. Bansal, 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 person aged 46 years in a motor accident occurred on 1.6.2004. He was going towards Chandigarh from Mohali when he was hit by a truck bearing registration No.HR-37A-2781 from behind, resulting into fatal injuries. He died on 3.6.2004 in PGI, Chandigarh. He was stated to be a Government employee and earning ₹13,049/- per month. The claimants are widow and two minor children.

The Tribunal while assessing the compensation took the income of the deceased as ₹13,049/-, applied a cut of ₹4044/- for personal expenses and adopted a multiplier of 13 to assess the loss of dependency as ₹14,04,000/-. In addition to this, added a sum ₹10,000/- for the loss of consortium, loss of estate and the funeral expenses, thus, in total awarded a compensation of ₹14,14,000/- with interest @7.5% per annum from the date of petition till realization.

Mr. Ashwani Arora, learned counsel appearing on behalf of the appellant submits that the Tribunal has not awarded anything for loss of love and affection for children, much less, very meager amount assessed towards loss of consortium, loss of estate and funeral expenses. The deceased was a Government employee and therefore, as per the ratio decidendi culled out by Hon'ble Supreme Court in ***Sarla Verma Vs. DTC 2009(6) SCC 121***, a 30% increase in salary as future prospects is required to be imposed, thus, the award is required to be modified.

There is no representation for respondent No.1 and 2 i.e. driver and owner. They also remained ex parte before the Tribunal.

On the contrary, Mr. Bansal, learned counsel appearing on behalf of respondent No.3-insurance company submits that the Tribunal has correctly assessed all the heads of law and there is no scope for further enhancement. Moreover, the driver of the offending truck was not in possession of the valid driving licence, therefore, recovery rights have been provided to the insurer from the insured after satisfying the award.

I have heard learned counsel for the parties and appraised the paper book and of the view that the amount of compensation is required to be re-assessed. I will retain the income of the deceased as ₹13,049/-. The deceased was in stable employment being a government employee and therefore, I will provide 30% increase in the salary as future prospects as the deceased was 46 years of age at the time of accident. There were three dependents, therefore, there shall be 1/3rd cut towards personal expenses. The multiplier of 13 as adopted by the Tribunal is correct. I will provide ₹1 lac towards loss of consortium to the wife and ₹1 lac each towards loss of affection to the children. Besides this, I will also add ₹10,000/- towards loss of estate and ₹25,000/- for funeral expenses.

In total, the amount of compensation shall be ₹20,99,256/-. The enhanced amount shall also attract interest @6% from the date of filing of the appeal till the date of realization. Since the insurance company was given recovery rights from the insured-owner after satisfying the Award, the insurance company shall be liable to pay the enhanced amount with interest with recovery rights from the insured. The enhanced amount shall be distributed equally amongst the claimants.

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

(AMIT RAWAL)
JUDGE

August 02, 2017
Pankaj*

Whether reasoned/speaking	Yes
Whether reportable	No