In the High Court of Punjab and Haryana at Chandigarh

FAO-1909 of 2006
Date of Decision:10.11.2017

Sukhwant Kaur and others
---Appellants

vs.

Satpal Kumar and others
---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

***

Present: Mr.Ashwani Arora, Advocate
for the appellants

Mr. Vinod Gupta, Advocate
for respondent No. 3

***

Rekha Mittal, J.

The claimants are in appeal seeking enhancement of compensation in regard to death of Gursewak Singh in a motor vehicular accident that took place on 5.12.2003.

The Motor Accidents Claims Tribunal, Rupnagar (in short "the Tribunal") assessed compensation to the tune of Rs. 7,90,000/-, detailed hereunder:-

1.	Monthly loss of dependency	Rs. 7,000/-
2.	Deduction for personal expenses	1/3rd
3.	Multiplier	14
4.	Loss of dependency	Rs.56,000 x 14= 7,84,000/-
5.	Funeral expenses	Rs. 6,000/-

Counsel for the claimants has submitted that the deceased retired from Army and was drawing pension of Rs. 2124/- per month. After his retirement, he got regular job as Conductor in Chandigarh Transport Undertaking (in short "CTU") at a salary of Rs. 8036/- per month. The Tribunal has discarded claim qua pension received by the deceased on the premise that family of the deceased is entitled to family pension, therefore, they cannot be allowed double the benefit of pension. It is argued that the Tribunal has not extended benefit of increase in income for future prospects to the extent of 50% and multiplier applied by the Tribunal needs to be modified. Adequate compensation may be awarded under conventional heads.

Counsel representing the insurance company has supported assessment of compensation by the Tribunal with the submission that pension paid to the deceased is not to be taken into consideration for computing loss of dependency as the family pension would be paid to family of deceased Gursewak Singh.

I have heard counsel for the parties and perused the paper book.

Perusal of findings of the Tribunal recorded in para 18 of the award makes it evident that gross salary of the deceased for the month of November 2003 was Rs. 8036/-. As per enunciation laid down by Hon'ble the Supreme Court of India in **National Insurance Company Limited vs. Indira Srivastava and others 2008(1) RCR (Civil) 359** and **Manasvi Jain vs. Delhi Transport Corporation 2014(3) RCR (Civil) 313,** loss of dependency is to be computed by taking into consideration all the allowances minus liability to pay tax. Annual dependency after deducting tax liability of Rs.8286/- comes to Rs.88,146/- (96,432- 8286).

As the deceased was less than 40 years of age and regular employee of CTU, a Government undertaking, addition qua future prospects would be 50%. Deduction allowed by the Tribunal for personal expenses is affirmed. In view of age of the deceased, admissible multiplier is 15. In this manner, loss of dependency comes to Rs. 88,146 x 15=13,22,190 + 6,61,095(50%)=Rs.19,83,285 – 4,95,821(1/4th) =14,87,463/-.

The claimants shall be entitled to following compensation under conventional heads:-

Loss of consortium to the widow	Rs. 40,000/-
Expenses on funeral	Rs. 15,000/-
Loss of estate	Rs. 15,000/-

Total compensation comes to **Rs. 15,57,463/-** and the additional amount is **Rs.7,67,463/-** (15,57,463-7,90,000). The additional amount shall carry interest at the rate of 7.5.% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

10.11.2017
paramjit

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