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

FAO No.598 of 2006
Date of Decision.17.08.2017

Vinod Kumar and another ....Appellants

Vs

Inder Dass and others ....Respondents

Present: Mr. B.S. Kathuria, Advocate
for the appellants.

Mr. Vinod Gupta, 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 Sheela Gopal and Nidhi Kashyap. On 06.05.2002, the deceased persons were travelling in car bearing registration No.CH-03D-7980 and when they reached near the turning of III point Sector 29, Chandigarh, a truck bearing registration No.HR-37-A-1449, driven rashly and negligently by respondent No.2, coming from the opposite side hit against the aforementioned car, resulting into death of Sheela Gopal and Nidhi Kashyap. In fact, the deceased were mother and daughter and the claimants are husband of Sheela Gopal and father of Nidhi Kashyap and son of Sheela Gopal and brother of Nidhi Kashyap. Sheela Gopal, aged 40 years, was stated to be working as Accountant in the Punjab State Cooperative Bank, Sector 30-A, Chandigarh and earning ₹14,525/- whereas the Nidhi Kashyap, aged 13 years, was a student of Mount Carmel School.

The Tribunal while assessing the compensation took the income of deceased-Sheela Gopal as ₹10,478/-, made a deduction of 1/3rd towards personal expenses and adopted a multiplier of 12 to assess the compensation as ₹10,30,840/- including ₹15,000/- provided towards loss of consortium. For death of Nidhi Kashyap, the Tribunal provided a lump sum amount of ₹1,30,000/-, with interest in both the cases @7.5% from the date of filing of the petitions till realization.

Mr. Kathuria, learned counsel appearing on behalf of the appellants submits that the Tribunal has committed illegality and perversity in taking the carry home salary of the deceased-Sheela Gopal instead of gross salary and adopting a multiplier of 12 whereas it should have been 15. It also did not provide anything for loss of love and affection, loss of estate and funeral expenses, much less, the amount assessed towards loss of consortium to the tune of ₹15,000/- is also on lower side. Even for death of Nidhi Kashyap, the amount of compensation assessed at ₹1,30,000/- is grossly low, thus, there is scope for enhancement.

Per contra, Mr. Vinod Gupta, learned counsel appearing on behalf of the insurance company submits that the Tribunal has taken care all the heads of claim and keeping in view the fact that the accident is of the year 2002, the amount of compensation awarded by the Tribunal in both the cases is sufficient, thus, there is no scope for further enhancement.

I have heard learned counsel for the parties, appraised the paper book and of the view that the Tribunal has erred in taking the carry home salary of the deceased while assessing the compensation whereas it ought to have taken the gross salary i.e. ₹14,525/- per month, much less, a 30% increase in salary on account of future prospects is required to be given. The choice of multiplier is also wrong. It should have adopted a multiplier of 15 for death of a person aged 40 years instead of 12, therefore, the amount of compensation is required to be re-assessed.

I will take the income of the deceased as ₹14,525/-, provided an increase of 30% on the same towards future prospects, apply a deduction of 1/3rd towards personal expenses and adopt a multiplier of 15 to assess the loss of dependency as ₹22,65,900/-. I will further add to it ₹1 lac towards loss of consortium to the husband, ₹1 lac for the child towards loss of love and affection, ₹10,000/- for loss of estate and ₹25,000/- for funeral expenses. In total, the compensation payable shall be ₹25,00,900/-. The amount in excess over what has already been provided by the Tribunal shall also attract interest @6% from the date of filing of the appeal till realization. The enhanced amount shall be distributed equally between the parties. The liability shall remain the same as has been assessed by the Tribunal.

As regards the death of Nidhi Kashyap, aged 13 years, I will provide ₹2,50,000/- i.e. ₹1,20,000/- more of what has already been assessed by the Tribunal. This amount will also attract interest @6% from the date of filing of the appeal till realization. The enhanced amount shall be distributed equally between the parties. The liability shall remain the same as has been assessed by the Tribunal.

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

(AMIT RAWAL)
JUDGE

August 17, 2017
Pankaj*

Whether reasoned/speaking	Yes
Whether reportable	No