In the High Court of Punjab and Haryana at Chandigarh

F.A.O No. 2864 of 2010 (O&M)
Date of Decision: 14.11.2017

Sushila Devi and others ......Appellants

Versus

Rajbir Singh and others ....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Mohit Garg, Advocate
for the appellants.

Mr. R.K.Singla, AAG, Haryana.

Ms. Vandana Malhotra, Advocate
for respondent No. 4-insurance company.

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ANITA CHAUDHRY, J

Delay of 64 days in filing the appeal is condoned.

This is the claimants' appeal seeking enhancement in the award dated 22.9.2009 passed by the Motor Accident Claims Tribunal, Bhiwani.

The record of this file had been burnt in the fire accident which had taken place in the year 2011 but the lower Court record is available. The photocopy of the record has been received.

Patram @ Pritam aged 38 years met with an accident on 21.10.2006. The claim petition was filed by his widow and two minor children and father. It was claimed that he was a driver and earning Rs. 5500/- per month besides the daily allowance. The Tribunal assessed the income at Rs. 3600/- per month and deducted 1/3rd towards personal expenses and applied the multiplier of 13 and calculated the compensation to be Rs. 3,74,400/-. Rs. 15,600/- was allowed towards funeral expenses, transportation and last rites. Total claim of Rs. 3,90,000/- was ordered.

The submission on behalf of the appellants is that after the decision by the larger Bench in ***National Insurance Company Limited versus Pranay Sethi and others, SLP (Civil) No. 25590 of 2014, decided on 31.10.2017*** an addition of 40% should be made towards future prospects and the Tribunal had applied a wrong multiplier and the deduction should have been 1/4th and a separate amount should have been awarded for the miscellaneous heads.

The submission on behalf of the insurance company is that they had the limited liability upto Rs. 5.00 lacs and if the amount is enhanced then it will have to be paid by Haryana Roadways who are the owners of the offending bus. It was urged that no addition toward future prospects should be made as the minimum wages had been taken into account since the deceased was not on a permanent job.

The minimum wages are determined by the government taking into account several factors such as poverty threshold, prevailing wage rates as determined by the labour force survey and socio economic indicators which include inflation, employment figures, gross regional domestic products and the prevailing market rates etc. It also takes into account the cost of living, the cost of training, demand and supply. Minimum wages are fixed under an Act and therefore, the minimum wages can be taken as 'income established' and when the deceased is considered to be a labourer and minimum wages are taken, the addition towards future prospects would be made.

Therefore, considering the age of the deceased, the addition would be 40% as the deceased was 38 years old. Considering the number of claimants, the deduction should be 1/3rd and the multiplier should be 15.

Taking the income at Rs. 3600/- and making an addition of 40%, the total income would be Rs. 5040/- (3600 + 1440). After deducting $1/3^{rd}$, the amount available for the family would be Rs. 3360/- and the compensation would come to Rs. 3360 x 12 x 15 = 6,04,800/-. Since the accident is of 2006, I would add Rs. 25,000/- for loss of consortium, Rs. 10,000/- for funeral expenses and Rs. 10,000/- for loss of estate which raises the total to Rs. 6,49,800/-. The Tribunal had allowed Rs. 3,90,000/- which would be deducted and the balance amount i.e. Rs. 2,59,800/- would be paid to the claimants with interest @ 6% from the date of filing of the appeal.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

November 14, 2017
Gurpreet

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