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

FAO No.1015 of 2011
Date of Decision.08.08.2017

Piari Devi and another ....Appellants

Vs

Sh. Khem Chand and others ....Respondents

Present: Ms. Ekta Thakur, Advocate
for the appellants.

Mr. Maninder Arora, Advocate
for the insurance company.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

C.M. No.2653-CII of 2011

For the reasons stated in the application, delay of 113 days in filing the appeal is condoned.

Application is allowed.

FAO No.1015 of 2011

The appeal is for enhancement of compensation for the death of a student of M.Tech aged 21 years. The claimants are the parents. The deceased along with his other classmates was going from village Barwala towards Golpura in a three wheeler bearing registration No.HR-68-8596 but when they reached near MLB Electric Brick Kiln in the area of village Mouli, a truck bearing registration No.HR-12C-6931 came from the wrong side and struck against the three wheeler, resulting into death of Jasbir Singh son of the claimants. In this regard, an FIR bearing No.113 dated 15.12.2008 under Sections 279, 337, 304-A IPC against the driver of offending truck was also registered at police station Raipur Rani.

The Tribunal while assessing the compensation took the income of the deceased as ₹4500/- per month, made a deduction of 50% as the deceased was a bachelor and adopted a multiplier of 15 to assess the compensation as ₹4,05,000/- with interest @8% per annum from the date of filing of the claim petition till realization.

Ms. Ekta Thakur, learned counsel appearing for the appellants submits that the Tribunal has assessed the loss of income of the deceased on lower side. The multiplier of 15 is also wrongly applied whereas it should have been 18, much less, nothing provided for loss of love and affection, funeral expenses and loss of estate. There is a definite scope of enhancement, thus, urges this Court to modify the award.

Per contra, learned counsel appearing on behalf of the insurance company submits that the compensation assessed by the Tribunal is perfectly legal and justified and there is no scope for enhancement, thus, urges this Court for dismissal of the appeal by upholding the award.

I have heard learned counsel for the parties and appraised the paper book. In the absence of any income proof or in the case of non-earning person, the income is required to be assessed on a guess work basis and in my view, the Tribunal has rightly assessed the income of the deceased as ₹4500/- per month being a student of M.Tech and made a deduction of 50% towards personal expenses as the deceased was a bachelor. However, the multiplier of 15 for a person aged 21 years has wrongly been applied whereas it should have been 18. Besides this, I will also provide ₹50,000/- each to the parents towards loss of love and affection, ₹25,000/- for funeral expenses and ₹10,000/- for loss of estate.

The total compensation payable shall be ₹6,21,000/-. 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 its realization. The enhanced amount shall be distributed equally between the claimants. The liability shall remain the same as has already been determined by the Tribunal.

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

(AMIT RAWAL)
JUDGE

August 08, 2017
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No