IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2911-2011 (O&M)
Date of decision: 07.12.2017

KRIPAL AND ANR ...Appellants

Versus

VINOD AND ORS ...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ajit Kumar, Advocate for
Mr. R.D. Yadav, Advocate for the appellants.

Mr. Mohit Rana, Advocate for
Mr. Gopal Sharma, Advocate for respondents No.1 and 2.

Ms. Vandana Malhotra, Advocate and
Ms. Monika Jangra, Advocate for the insurance company.

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REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Vikas in a motor vehicular accident that took place on 04.08.2009.

The Tribunal has awarded compensation to the tune of Rs.4,25,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.5000/-
2. Deduction for personal expenses	50%
3. Multiplier	14
4. Expenses on funeral and last rites	Rs.5000/-

Counsel for the appellants has submitted that the Tribunal has not allowed benefit of increase in income for future prospects to the extent of 40% and appropriate multiplier on the basis of age of the deceased. Adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company, on the other hand, has supported the assessment.

The Tribunal has assessed income of the deceased at Rs.5000/- per month. The claimants relied upon Income Tax Return for the assessment year 2009-10 but the same was filed after death of Vikas. The Tribunal has noticed that the claimants did not produce any documentary evidence with regard to deceased carrying on business of purchase and sale of banana and maintaining a godown for the purpose. Under the circumstances, there is no justification for enhancement of income of the deceased. However, claimants shall be entitled to increase in income for future prospects to the extent of 40% as the deceased was 20 years old. The admissible multiplier, in the circumstances, would be 18. In this context, reference can be made to latest judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors. Special Leave Petition (Civil) No. 25590 of 2014, decided on 31.10.2017.** In view of the above, loss of dependency comes to Rs.5000 x 12 x 18 + 40% (future prospects) – 50% (deduction towards personal expenses) = Rs.7,56,000/-.

Under conventional heads, claimants shall be entitled to following compensation:-

1. Expenses on funeral/last rites Rs.15,000/-

2. Loss of estate	Rs.15,000/-
Total	**Rs.30,000/-**

The total compensation comes to Rs.7,86,000/- and the additional amount is Rs.3,61,000/- (7,86,000 – 4,25,000). The additional amount shall carry interest @ 7.5% per annum from the date of petition till realization, payable to mother of the deceased.

The appeal is partly allowed in the aforesaid terms.

07.12.2017
ashok

(REKHA MITTAL)
JUDGE

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