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

FAO No.3342 of ₹2011
Date of Decision.22.12.2017

Deepti and others ....Appellants

Vs

Amar Singh and others ....Respondents

2. **FAO No.4687 of 2011**

Deepti and others ....Appellants

Vs

Amar Singh and others ....Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Adish Gupta, Advocate
for the appellants.

Mr. Ashwani Talwar, Advocate
for the insurance company.

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AMIT RAWAL J.(ORAL)

This order of mine shall dispose of two appeals arising out of the same accident. The claimants are the children through their grandmother, who lost their parents in a motor accident occurred on 22.04.2008.

The appeal bearing No.3342 of 2011 in MACT case No.58 of 2009 has been preferred for enhancement of compensation for death of father of the claimants namely Nemraj aged 46 years. He was stated to be earning ₹25,000/- per month. The Tribunal while assessing the compensation took the income of the deceased as ₹4500/- per month in view of minimum wages, made a deduction of 1/4th and adopted a multiplier of 13 to assess the compensation of ₹5,36,500/- including ₹5000/- for funeral and transportation expenses and ₹5000/- for loss of estate.

Learned counsel appearing for the appellants submits that the income assessed by the Tribunal to the tune of ₹4500/- per month is on lower side, keeping in view that the fact that he was owner of Tata 407 and engaged in dairy business. It did not provide any increase in the salary as future prospects, much less, the amounts provided towards funeral expenses and loss of estate is also on lower side, in view of the ratio decidendi culled out by Hon'ble Supreme Court in ***National Insurance Company Ltd. Vs. Pranay Sethi and another 2017 ACJ 2700***, thus, there is scope for further enhancement.

As regards the appeal bearing No.4687 of 2011 in MACT case No.59 of 2009 for enhancement of compensation on account of death of mother aged 44 years of the claimants, the Tribunal took the income of the deceased as ₹3000/- per month, made a deduction of 1/4th and adopted a multiplier of 14 to assess the compensation of ₹3,88,000/- including ₹5000/- for funeral and transportation expenses and ₹5000/- for loss of estate.

Learned counsel for the appellants in FAO No.4687 of 2011 argued that the income taken by the Tribunal as ₹3000/- per month is on lower side when there was a specific pleading that the deceased was engaged in dairy, tailoring & stitching work and earning ₹15,000/- per month. He raised similar arguments as raised in FAO No.3342 of 2011 for enhancement of compensation on the grounds of future prospects and conventional heads of claim.

Mr. Ashwani Talwar, learned counsel appearing for the insurance company submits that the Tribunal has taken care of all the heads of claim sufficiently and there is no scope for further enhancement, thus, urges this Court for dismissal of both the appeals.

I have heard learned counsel for the parties and appraised the paper book. As regards the appeal bearing No.3342 of 2011, in the absence of any documentary proof qua income of the deceased, I will retain the income taken by the Tribunal as ₹4500/- per month but I will provide 25% increase on the same as future prospect. I will make a deduction of $1/4^{th}$ towards personal expenses and adopt a multiplier of 13 to assess the loss of dependency as ₹6,58,125/-. I will further add to it ₹15,000/- each towards loss of estate and funeral expenses. In all, the compensation payable shall be ₹6,88,125/-. The enhanced amount shall be distributed equally between the claimants.

As regards the appeal bearing No.4687 of 2011, I will take the income of the deceased as ₹3664/- per month as per minimum wages prevalent at the relevant time, provide an increase of 25% on the same, make a deduction of $1/4^{th}$ towards personal expenses and adopt a multiplier of 14 to assess the loss of dependency as ₹5,77,080/-. I will further add to it ₹15,000/- each towards loss of estate and funeral expenses. In all, the compensation payable shall be ₹6,07,080/-. The enhanced amount shall be distributed amongst the claimants in the ratio of 2:2:2:2:1.

In both the cases, 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 liability shall remain the same as has already been determined by the Tribunal.

The awards passed by the Tribunal are modified and the appeals are allowed to the above extent.

(AMIT RAWAL)
JUDGE

December 22, 2017
Pankaj*

Whether reasoned/speaking	Yes
Whether reportable	No