

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

FAO No.272 of 2012

Date of Decision.30.08.2017

Smt. Rekha Rani and others

.....Appellants

Vs

Darshan Singh @ Nanu and others

.....Respondents

Present: Mr. K.S. Dhanora, Advocate
for the appellants.

Mr. Rajesh Kumar Sharma, Advocate
for respondent No.3.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)
C.M. No.1203-CII of 2012

For the reasons stated in the application, delay of 81 days in
filing the appeal is condoned.

Application is allowed.

FAO No.272 of 2012

The appeal is for enhancement of compensation for death of one Naresh Kumar aged 38 years, who died in a motor accident occurred on 25.04.2009. He was going towards Madhuban on motor cycle bearing registration No.HR-05X-3864 along with one Devi Dayal and when they reached near Namastey Chowk, Karnal, the offending vehicle, driven by respondent No.1 rashly and negligently, came from behind and struck against the motor cycle, as a result of which the deceased received multiple grievous injuries which proved fatal. In this regard, an FIR bearing No.271 dated 25.4.2009 under Sections 279, 337, 304A IPC was also registered.

The claimants are widow, two children and mother. He was stated to be running a goldsmith shop and earning ₹7000/- per month.

The Tribunal while assessing the compensation took the income of the deceased as ₹4348/- per month, applied a deduction of 1/4th on the same towards personal expenses and adopted a multiplier of 15 to assess the compensation at ₹6,00,000/- including ₹13,020/- as funeral expenses.

Mr. Dhanora, learned counsel appearing on behalf of the appellants submits that the Tribunal while awarding the compensation took the income of the deceased as ₹4348/- which is on lower side, much less, did not provide anything for loss of consortium, loss of love and affection and loss of estate, thus, there is scope for enhancement.

On the contrary, Mr. Rajesh Kumar Sharma, learned counsel appearing for the insurance company submits that the award passed by the Tribunal is perfectly legal and justified. In the absence of any direct and cogent evidence, the income taken by the Tribunal as ₹4348/- is correct view. There is no scope for further enhancement, thus, urges this Court for dismissal of the appeal.

I have heard learned counsel for the parties and appraised the paper book. In the absence of any cogent and direct evidence, I am of the view that the income taken by the Tribunal on the basis of minimum wages is a correct approach. The deduction of 1/4th towards personal expenses and choice of multiplier is also correct, therefore, I will retain the loss of dependency as assessed by the Tribunal i.e. ₹5,86,980/-. However, I will add to it ₹1 lac for loss of consortium to the wife, ₹50,000/- each to both children and mother for loss of love and affection, ₹10,000/- for loss of estate and ₹25,000/- for funeral expenses.

In all, the total compensation shall be ₹8,71,980/-. 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 amongst the claimants in the ratio of 2:2:2:1 i.e. the mother shall get half of the share of other claimants.

The liability shall remain the same as has already been determined by the Tribunal, in essence, the insurance company shall have the recovery right after satisfying the award from the owner-respondent No.2.

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

(AMIT RAWAL)
JUDGE

August 30, 2017
Pankaj*

Whether reasoned/speaking	Yes
Whether reportable	No