IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 3632 of 2012(O&M)
Date of Decision : 15.11.2017

SAVITRI AND ANOTHER

.... Appellants

Versus

DHARMENDER SINGH AND ORS

.... Respondents

CORAM : HON'BLE MR. JUSTICE B.S.WALIA

Present: Mr. Ashwani Arora, Advocate for the appellants.

Mr. Ashwani Talwar, Advocate for respondent No.3-Insurance Company.

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B.S.WALIA, JUDGE (ORAL)

1. Appellant-claimants i.e. parents of deceased Master Sukkan who died in an accident on 06.12.2009, and who were awarded a sum of ₹2,80,000/- along with interest of 6% per annum by taking notional income of ₹3000/- per month, dependency of 50% and applying multiplier of 15 besides award of ₹10,000/- under conventional heads, have sought enhancement of the compensation awarded on the following grounds:

Firstly, that the income assessed ought to be ₹3300/- on account of minimum wages of ₹3914/- per month payable to a labourer in the Union Territory, Chandigarh in the year 2009.

Secondly, that personal expenses deducted @50% from income assessed of deceased was liable to be reduced to 1/3rd in terms of Note 1 to the Second Schedule to the Motor Vehicles Act, (hereinafter referred to as 'the Act'), accordingly, dependency was liable to be worked out at 2/3rd instead of 50%.

Thirdly, multiplier of 15 had been wrongly applied in view of the age of deceased being 16 years in which situation, multiplier of 16 was applicable in terms of the Second Schedule to the Act.

2. Learned counsel for the respondent-Insurance Company has admitted that the minimum wages payable to a labourer in the Union Territory, Chandigarh during the year 2009 was ₹3914 per month. He has also not disputed the claim of the appellants for treating the income of the deceased as ₹ 3300/- per month.

3. I am of the considered view that taking into account the minimum wages payable to a labourer in the Union Territory, Chandigarh during the year 2009 was ₹3914 per month, it would be reasonable to assess the income of the deceased at ₹3300/- per month by taking into account that the deceased could not have got work for all the days in the month. Accordingly, the income of the deceased assessed at ₹3000/- by the learned Tribunal is enhanced to ₹3300/- per month.

4. As regards the dependency, Note 1 to the Second Schedule to the Act reveals that 1/3rd deduction is to be made towards personal expenses of the deceased. In the circumstances, dependency as worked out by the learned Tribunal at 50% is revised to 2/3rd in view of Note 1 to the Second Schedule to the Act.

5. Multiplier of 15 has been applied by the learned Tribunal, contrary to the Second Schedule to the Act. As per the Second Schedule to the Act, where age of deceased is between 15 to 20 years, multiplier of 16 is to be applied. Accordingly, multiplier of 15 as applied by the learned Tribunal is modified to 16.

6. Learned counsel for the respondent-Insurance Company states that a

sum of ₹10,000/- has been awarded on account of conventional heads whereas the deceased being unmarried was only entitled to ₹2000/- on account of funeral expenses and ₹2500/- towards loss of estate, total ₹4500/- instead of ₹10,000/- awarded. Aforementioned submission of the learned counsel for the respondent-Insurance Company is in consonance with Note 3 to the Second Schedule to the Act. Accordingly, the same merits acceptance. Resultantly, ₹10,000/- awarded by the learned Tribunal towards conventional heads is, reduced to ₹4500/- i.e. ₹2000/- towards funeral expenses and ₹2500/- towards loss of estate.

7. In the circumstances, as against the sum of ₹2,80,000/- awarded by the learned Tribunal along with interest @ 6% per annum, the claimants-appellants are held entitled to receive compensation as ₹3300 x 12 x 16 x2/3rd + ₹4500= ₹4,26,900/- along with interest @ 6% per annum, less amount, if any, already paid.

8. Needless to mention that after making payment of the awarded compensation to the claimants-appellants, the Insurance Company would be at liberty to recover the same from the registered owner of the offending vehicle.

9. Accordingly, the appeal is disposed of in the above terms.

(B.S.WALIA)
JUDGE

November 15, 2017
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1. Whether speaking/reasoned: Yes/No
2. Whether reportable: Yes/No