IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 3634 of 2012 (O&M)
Date of Decision : 15.11.2017

VEERWATI AND ANOTHER

.... Appellants

Versus

DHARMENDER SINGH AND ORS

.... Respondents

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

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

Mr. Ashwani Talwar, Advocate for the respondent-Insurance Company.

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B.S.WALIA, JUDGE (ORAL)

1. Appeal is for enhancement of compensation of ₹2,44,000/- awarded to the parents of deceased Neeraj Kumari who died in an accident on 06.12.2009 by taking into account notional income of ₹3000/- per month, applying multiplier of 13 and deduction of 50% towards personal expenses, besides awarding a sum of ₹10,000/- on account of conventional heads.

2. Learned counsel for the claimants-appellants contended that the compensation awarded was liable to be enhanced on the following grounds:

Firstly that the minimum wages payable to a labourer in the Union Territory, Chandigarh during the year 2009 was ₹3914/- per month. Accordingly, taking into account the fact that the deceased was working as a labourer, minimum ₹3300/- per month was liable to be assessed as the income of the deceased presuming that the deceased may not have got work throughout the whole month.

Secondly, that multiplier had been wrongly applied at 13 whereas as per the Second Schedule to the Motor Vehicles Act, 1988 (hereinafter referred to as the 'Act'), in case the age of the deceased was between 15 to 20 years, multiplier of 16 was applicable.

3. 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.

4. After hearing learned counsel for the parties, I am of the considered view that since the minimum wages payable to a labourer in the Union Territory, Chandigarh during the year 2009 was ₹3914/- per month, therefore, taking into account that the deceased may not have got work for all days in the month, it would be reasonable to take a sum of ₹ 3300/- per month as the income of the deceased. Accordingly, the income of the deceased assessed by the learned Tribunal at ₹3000/- is enhanced to ₹3300/- per month.

5. Learned counsel further contended that the dependency had been wrongly worked out at 50% in view of the Note 1 to the Second Schedule to the Act, which provides for reduction of amount of compensation so arrived at in the case of fatal accident claims by l/3rd in consideration of the expenses which the victim would have incurred towards maintaining himself had she been alive.

6. The aforementioned submissions of learned counsel for the claimants-appellants merits acceptance in view of Note 3 to the Second Schedule to the Act. Accordingly, the personal expenses incurred by the deceased on herself are treated as 1/3rd. Therefore, the dependency is worked out at 2/3rd. The finding of the learned Tribunal to that extent is modified as above.

7. As per the Second Schedule to the Act, in case the age of the deceased is between 15 to 20 years, multiplier of 16 is applicable. However, the learned Tribunal has applied multiplier of 13. Accordingly, the multiplier applicable is modified from 13 to 16 since deceased was 19 years old.

8. As against the award of compensation of ₹10,000/- on account of conventional heads, it is found that since the deceased was unmarried, the sum of ₹5000/- on account of loss of consortium would have to be excluded while awarding compensation under conventional heads. Accordingly, instead of ₹10,000/- a sum of ₹4500/- only would be payable i.e. ₹2000/- towards funeral expenses and ₹ 2500/-towards loss of estate.

9. Accordingly, as against compensation of ₹2,44,000/- awarded by the Tribunal to the claimants-appellants in their petition under Section 163-A of the Motor Vehicles Act, 1988, the revised amount payable to the claimants-appellants would be as under :

₹3300 x 12 x 16 x2/3 + ₹4500 = ₹4,26,900/- along with interest @ 6% per annum with effect from the date of filing of the claim petition till date of payment, less amount, if any, already paid.

10. 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.

11. Accordingly, the appeal is allowed as above.

(B.S.WALIA)
JUDGE

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