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

FAO No.924 of 2012
Date of Decision.21.11.2017

Smt. Vijotama Devi and others ....Appellants

Vs

Sukhvinder Singh and others ....Respondents

Present: Mr. B.S. Dhillon, Advocate
for the appellants.

Mr. Suvir Dewan, Advocate
for the insurance company.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The appeal is for enhancement of compensation for death of one Parmod Kumar aged 39 years, who died in a motor accident occurred on 26.01.2010. He was driving a maurti van bearing registration No.HR-49-4657 along with Rakesh Kumar and Ram Parshad and when they reached near village Khanpur-Kolian, a truck/tanker bearing registration No.HR-38G-5296 driven rashly and negligently by respondent No.1 suddenly entered the G.T. Road without minding the traffic and applied sudden brakes on account of which the maruti van struck against the truck/tanker. In this regard, an FIR bearing No.37 dated 26.01.2010 under Sections 279, 337 and 304-A IPC was also registered. He left behind widow, two sons and mother. The deceased was stated to be engaged in the business of sale and purchase of cars and stated to be earning ₹15,000/- per month including agricultural income.

The Tribunal while assessing the compensation of ₹5,65,000/-, took the income of the deceased as ₹4000/- per month, make a deduction of 1/4th and applied a multiplier of 15 including ₹14,000/- on account of loss of consortium and ₹11,000/- for funeral expenses and last rites.

Mr. Dhillon, learned counsel appearing on behalf of the appellants submits that the Tribunal erred in taking the income of the deceased as ₹4000/- when there was a specific pleading that he was earning ₹15,000/- per month. Moreover, no increase was made in the salary towards future prospects and the amounts of ₹14,000/- towards loss of consortium and ₹10,000/- for funeral expenses are also on lower side, thus, there is scope for enhancement.

On the contrary, Mr. Dewan, learned counsel appearing on behalf of the insurance company submits that the Tribunal has taken care of all the heads of claim sufficiently. In the absence of any income proof, the income taken as ₹4000/- per month is just and fair, thus, there is no scope for further enhancement.

I have heard learned counsel for the parties and appraised the paper book. In the absence of any income proof, the Tribunal has rightly taken the income of the deceased as ₹4000/- per month which I will retain. However, in view of the ratio decidendi culled out by Hon'ble Supreme Court in ***National Insurance Company Ltd. Vs. Pranay Sethi and another*** passed in SLP (Civil) No.25590 of 2014 on 31.10.2017, I will also provide 40% increase on the same as future prospects. I will make a deduction of 1/4th towards personal expenses and adopt a multiplier of 15 to assess the loss of dependency as ₹7,56,000/-. I will further add ₹40,000/- towards loss of consortium to the widow, ₹15,000/- for loss of estate and ₹15,000/- for funeral expenses.

In total, the compensation payable shall be ₹8,26,000/-. 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 in the ratio of 2:2:2:1 amongst the claimants. The liability shall remain the same as has already been determined by the Tribunal i.e. the insurance company shall have the recovery rights after satisfying the award from respondent Nos.1 and 2.

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

(AMIT RAWAL)
JUDGE

November 21, 2017
Pankaj*

Whether reasoned/speaking	Yes
Whether reportable	No