IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.10065 of 2014 (O&M)
Date of decision: 14.12.2017

Bimla and ors. .... Appellants

versus

Pawan Kumar and ors. .... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. S.S.Khurana, Advocate for the appellants.

Mr. Kulbhushan, Advocate for Mr. Arvind Kumar, Advocate for respondent Nos.1 and 2.

Mr. Rajbir Singh, Advocate for respondent No.3.

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Rekha Mittal, J(Oral)

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Rewari (in short 'the Tribunal') in regard to death of Rajinder Kumar in a motor vehicular accident that took place on 01.05.2013.

The Tribunal has awarded compensation to the tune of Rs.15,19,019,/-, detailed hereunder:

Monthly income of the deceased	Rs.14,081/-
Deduction for personal expenses	1/4th
Multiplier	11
Loss of Dependency	Rs.13,94,019/- (Rs.10560.75 x 11 x 12)
Funeral expenses	Rs.25,000/-

Loss of consortium Rs.1,00,000/-

Counsel for the appellants would urge that the deceased was working as Fork Lift Operator in Metso Mineral India Pvt. Ltd. at salary of Rs.23,212/- per month. The Tribunal has wrongly ignored the allowances paid to the deceased and, at best, an amount of Rs.700/- towards washing allowance and conveyance allowance can be deducted. The claimants are entitled to increase in income for future prospects.

Counsel representing the insurance company, on the other hand, would urge that an amount of Rs.1,200/- per month towards washing allowance, conveyance allowance and education allowance is liable to be deducted from salary for computing loss of dependency. Compensation awarded under conventional heads needs reduction in the light of enunciation laid down by Hon'ble the Supreme Court ***National Insurance Company Ltd. vs. Pranay Sethi, 2017 SCC 1270.***

I have heard counsel for the parties, perused the paper book and records.

There is no dispute that the deceased was working as Fork Lift Operator in Metso Mineral India Pvt. Ltd. at salary of Rs.23,212/- per month. Perusal of the document Ex.PW-3/C shows that total salary of the deceased was Rs.23,212/-, out of which an amount of Rs.300/- for washing allowance, Rs.500/- for conveyance allowance and Rs.400/- for education allowance was paid. The aforesaid allowances, being personal in nature, would be reduced from gross salary of Rs.23,212/- for computing loss of dependency. In this manner, monthly income of the deceased for computing loss of dependency comes to Rs.22,012/-. The claimants shall be entitled to increase in income for future prospects to the extent of 10%. The multiplier and deduction for the personal expenses allowed by the Tribunal are affirmed. In this manner, loss of dependency comes to Rs.22,012 x 12 x 11 = 29,05,584 + 2,90,558 (10% future prospects) =31,96,142 - 7,99,036 (1/4th deduction) = Rs.23,97,106/-.

The Tribunal has awarded an amount of Rs.1,25,000/- under conventional heads, more than what is permissible in view of latest judgment of Hon'ble the Supreme Court in ***Pranay Sethi's case(supra)***. The claimants are entitled to Rs.70,000/- under conventional heads, detailed hereunder:

Loss of consortium	Rs.40,000/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-

In view of the above, total compensation comes to Rs.24,67,106/- and the enhanced compensation is Rs.9,48,087/-. The enhanced compensation shall carry interest @ 7.5% per annum from the date of filing of petition till realisation, payable to the widow and daughter of the deceased, to be invested in fixed deposits for a period of three years.

The appeal is partly allowed in the aforesaid terms.

14.12.2017
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(Rekha Mittal)
Judge

Whether speaking/non-speaking? Yes/No
Whether reportable? Yes/No