IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

-.-

FAO 3567 of 2013 (O&M)
Date of decision: 13.11.2017

Hemlata and others .... *Appellants*

Versus

Bhola Singh and others ....*Respondents*

Coram: **Hon'ble Mrs. Justice Rekha Mittal**

-.-

Present: Mr. Ashok Jindal, Advocate
for the appellants

Mr. Deepak Aggarwal, Advocate
for respondent No. 2

Mr. Paul S Saini, Advocate with
Mr. Vipul Sharma, Advocate
for respondent No. 3

-.-

Rekha Mittal, J.

The claimants are in appeal seeking enhancement of compensation in regard to death of Gian Singh in a motor vehicular accident that took place on 15.03.2012.

The Tribunal has awarded compensation to the tune of Rs.6,21,000.00, detailed hereunder:-

Monthly income of the deceased	Rs.4,500.00
Deduction for personal expenses 1/3rd	Rs.3,000.00
Multiplier	17
Loss of dependency	Rs.3000x12x17=Rs.6,12,000.00
General damages and loss of estate	Rs.6,000.00
Funeral expenses	Rs.3,000.00

Counsel for the appellant has submitted that the deceased was working with Singla Cooler Factory, Bathinda at monthly salary of Rs.10,000.00 but the Tribunal has assessed his income at Rs.4,500.00 per month. The Tribunal has not allowed benefit of increase in income for future prospects and adequate compensation under conventional heads.

Counsel representing the insurance company, on the contrary, has supported the award with the submission that adequate compensation has been assessed by the Tribunal. It is further submitted that claimants failed to adduce satisfactory much less convincing evidence on record with regard to avocation and income of the deceased. Another submission made by Counsel is that the claimants are not entitled to benefit of increase in income for future prospects as income of the deceased has not been established.

The claimants raised a plea that the deceased was doing job with Singla Cooler Factory, Bathinda at monthly salary of Rs.10,000.00. Hem Lata, widow of the deceased examined herself and reiterated her stand with regard to avocation and income of the deceased. As her testimony does not find corroboration from any independent source much less documentary evidence, the Tribunal assessed income of the deceased on the basis of minimum wage of a casual labourer. Under the circumstances, I do not find any error in findings of the Tribunal assessing income of the deceased at Rs.4,500.00 per month.

The Tribunal has not extended benefit of increase in income for future prospects. The deceased was 30 years old at the time of occurrence and left behind his widow, one year old daughter and widowed mother. There is nothing on record suggestive of fact that he would have stagnated at income of Rs.4,500/- per month, had he remained alive. The income assessed by the Tribunal is amenable to addition for future prospects to the extent of 40% in the light of latest judgment of Hon'ble the Supreme Court ***National Insurance Company Limited v. Pranay Sethi and others*** (SLP (Civil) 25590 of 2014, decided on 31.10.2017). Multiplier and deduction for personal expenses applied by the Tribunal are correct and ordered to be affirmed. In this view of the matter, loss of dependency comes to **Rs.9,63,900.00** *i.e.* Rs.4,500 x 12 x 17 = Rs.9,18,000 + Rs.3,67,200 (40% future prospects) – 3,21,300 (¼th personal expenses) .

The claimants shall be entitled to following compensation under conventional heads:-

Loss of consortium to widow	Rs.40,000
Loss of estate	Rs.15,000
Funeral expenses	Rs.15,000

Total compensation comes to **Rs.10,33,900.00** (9,63,900 + 70,000) and additional amount is **Rs.4,12,900.00** (10,33,900-6,21,000) which shall carry interest at the rate of 7.5% per annum from the date of petition till realization, payable to the widow and daughter of the deceased in the ratio of 20:80. The amount falling to share of the child shall be deposited in Fixed Deposit Receipt for a period of three years or till she attains the age of majority, whichever is later. However, interest on FDR shall be payable to mother for meeting expenses of education etc. of child.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

13.11.2017
mohan bimbra

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No