IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-3667-2013 (O&M)
Date of decision: 13.10.2017

URMILLA & ORS ...Appellants

Versus

ANIL KUMAR & ORS ...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Inderjit Sharma, Advocate for the appellants.

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

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REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation in regard to death of Bed Pal in a motor vehicular accident that took place on 18.12.2011.

The Tribunal awarded compensation to the tune of Rs.8,50,000/- detailed hereunder:-

Monthly loss of income	Rs.7500/-
Deduction for personal expenses	1/3rd
Multiplier	13
Loss of dependency	Rs.7500 x 12 x 13 – 1/3rd (thereof) = Rs.7,80,000/-
Expenses on transportation of dead body and funeral	Rs.25,000/-
Loss of consortium	Rs.25,000/-
Loss of love and affection to the children and mother of the deceased	Rs.20,000/-
Total	**Rs.8,50,000/-**

Counsel for the claimants has submitted that application for compensation was filed by the widow, two minor children and widowed mother of deceased Bed Pal, held entitled to get compensation, therefore, admissible deduction would be 1/4th. The Tribunal has not allowed benefit of increase in income for future prospects in the light of enunciation laid down by Hon'ble the Apex Court in **Rajesh and others Vs. Rajbir Singh and others, (2013) 9 SCC 54**. Compensation awarded under conventional heads is grossly inadequate and needs enhancement.

Counsel representing the insurance company has supported assessment made by the Tribunal with the submission that adequate compensation has been awarded. In addition, it is argued that the matter with regard to increase in income for future prospects is pending consideration before a Larger Bench of Hon'ble the Supreme Court in view of reference made in **National Insurance Company Ltd. Vs. Pushpa,** (SLP (c) No.16735 of 2014).

There is no denial that claim for compensation made by the widow, two minor children and widowed mother of the deceased has been allowed by the Tribunal. Under the circumstances, admissible deduction for personal expenses would be 1/4th. The deceased was 46 years old at the time of occurrence and he left behind family consisting of his widow, two minor children and widowed mother. There is nothing on record suggestive of the fact that that the deceased would have stagnated at income of Rs.7500/- per month, had he remained alive. I stand fortified in my observation from the fact that State Governments revise minimum wages at short intervals. In this view of the matter, the mere fact that reference is pending before a Larger Bench of Hon'ble the Supreme Court is not sufficient to deny the benefit of future prospects till judgment in **Rajesh's case (supra)** is varied or set aside. After extending benefit of increase in income for future prospects to the extent of 30% and deduction for personal expenses to the tune of 1/4th, loss of dependency comes to Rs.7500 x 12 x 13 + 30% (towards future prospects) – 1/4th (towards personal expenses) = Rs. 11,40,750/-.

Under conventional heads, compensation awarded by the Tribunal for funeral and transportation expenses to the tune of Rs.25,000/- is affirmed. The claimants shall be entitled to additional compensation under conventional heads, detailed hereunder:-

Loss of consortium to the widow	Rs.1 lakh (additional amount Rs.75,000/-)
Loss of love and affection to the children and mother of the deceased	Rs.2 lakh (additional amount Rs.1.8 lakh)
Total	**Rs.3,00,000/-**

The total compensation is Rs.14,65,750/- and the additional amount is Rs.6,15,750/- (14,65,750 – 8,50,000). The additional amount shall carry interest @ 7.5% per annum from the date of petition till realization, payable to the widow and minor children of the deceased (in equal proportion) except an amount of Rs.50,000/- for loss of love and affection to mother of the deceased. The share of the minor children shall be deposited in FDRs payable on their attaining age of majority or for a period of three years, whichever is later. The claimants shall not raise any loan against the FDRs.

The appeal is partly allowed in the aforesaid terms.

13.10.2017
ashok

(REKHA MITTAL)
JUDGE

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