IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1940 of 2015 (O&M)
Date of decision: 09.11.2017

Jaswinder Kaur and others ...Appellants

Versus

Maksud Khan and others ...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : None for the appellants.

Mr. Punit Jain, Advocate
for the insurance company.

Mr. Prabhjot Singh, Advocate for
Mr. M.S. Dua, Advocate
for respondent No.4.

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<u>REKHA MITTAL, J. (Oral)</u>

CM No.6075-CII-2015

Heard.

For the reasons stated in the application supported by affidavit of Smt. Jaswinder Kaur wd/o Sh. Shingara Singh, same is allowed. Delay of 126 days in filing the appeal is condoned.

Main Case

The claimants are in appeal seeking enhancement of compensation in regard to death of Shingara Singh in a motor vehicular accident that took place on 04.07.2013.

The Tribunal has awarded compensation to the tune of Rs.11

lakh, detailed hereunder:-

Monthly income of the deceased	Rs.8,000/-
Deduction for personal expenses	1/4th
Multiplier	15
Loss of dependency	Rs.72,000 x 15 = Rs.10,80,000/-
Expenses on funeral	Rs.20,000/-
Total	**Rs.11,00,000/-**

The Tribunal has also awarded loss of consortium to widow of the deceased to the tune of Rs.1 lakh that finds reference in paras 15 and 19 of the award.

Counsel for the insurance company has submitted that the Tribunal has assessed income of the deceased at Rs.8,000/- per month but at the relevant time minimum wage of a skilled worker available in State of Punjab was Rs.7372/- per month, therefore, plea of the claimants for enhancement of income of the deceased is not justified. Another submission made by counsel is that as the claimants have not established income of the deceased, they are not entitled to benefit of increase in income for future prospects.

The plea of the claimants is that deceased was earning Rs.60,000/- per month by plying truck No.PB-10-BU-5237. Jaswinder Kaur widow of the deceased appeared in the witness box and admitted that the said vehicle stood registered in the name of her father-in-law namely Raghbir Singh S/o Ajit Singh. Satish Kumar CW3 from M/s West Coast Logistics produced the records of truck No.PB-10-BU-5237 dated

24.06.2013 in the name of Shingara Singh son of Ajit Singh. However, it has been established that the deceased was driver of the truck and he sustained injuries while driving the aforesaid truck due to rash and negligent driving of truck bearing No.RJ-02-GA-6960. There is no clear evidence available on record with regard to income from the truck owned by father of the deceased. As the truck was owned by father of the deceased and the same was driven by the deceased for the purpose of transportation of goods, income of the deceased is to be assessed on the basis of minimum wage of a skilled worker plus loss of managing capacity in regard to the truck in question. Under the circumstances, income of the deceased is assessed at Rs.10,000/- per month.

The deceased died at a young age of less than 40 years leaving behind his widow, two minor daughters aged 8 and 7 years and a son aged 3 years. In view of the enunciation laid down by Hon'ble the Supreme Court in the latest judgment **National Insurance Company Limited Vs. Pranay Sethi and Ors.** Special Leave Petition (Civil) No. 25590 of 2014, decided on 31.10.2017, claimants are allowed benefit of increase in income for future prospects to the extent of 40%. The Tribunal has rightly applied multiplier of 15 and deduction to the extent of $1/4^{th}$ for computing loss of dependency. In this manner, loss of dependency comes to Rs.10,000 x 12 x 15 + 40% (future prospects) - $1/4^{th}$ (deduction for personal expenses) = Rs.18,90,000/-.

Under conventional heads, claimants shall be entitled to following compensation in the light of judgment in Pranay Sethi's case (supra):-

Loss of consortium to the widow	Rs.40,000/-
Expenses on funeral	Rs.15,000/-
Loss of estate	Rs.15,000/-
Total	**Rs.70,000/-**

The total compensation comes to Rs.19,60,000/- and the additional amount is Rs.8,60,000/- (19,60,000 – 11,00,000). The additional amount shall carry interest @ 7.5% per annum from the date of petition till realization. However, it is clarified that in case the claimants have been paid an amount of Rs.1 lakh towards loss of consortium in addition to Rs.11 lakh, the additional amount payable would be Rs.7,60,000/- (19,60,000 – 12,00,000) and the interest would be charged accordingly on Rs.7,60,000/-.

The additional amount shall be payable to minor children of the deceased in equal ratio to be deposited in FDRs payable on their attaining age of majority or for a period of three years, whichever is later. The interest accruing on FDRs shall be payable to mother of the minors for meeting expenses on their education and living.

The appeal is partly allowed in the aforesaid terms. All other terms and conditions of the award shall remain intact.

09.11.2017 **(REKHA MITTAL)**
ashok **JUDGE**

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