In the High Court of Punjab and Haryana at Chandigarh

FAO- 360 of 2014(O&M)
Date of Decision: 14.12.2017

Lakhwinder Singh and others

---Appellants

versus

Dilbagh Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Veneet Sharma, Advocate
for the appellants

Mr. Vinod Chaudhri, Advocate,
for respondent No. 3- insurance company

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Rekha Mittal, J.

The claimants are in appeal seeking enhancement of compensation in regard to death of Karnail Singh in a motor vehicular accident that took place on 26.11.2010.

The Motor Accidents Claims Tribunal, Tarn Taran (in short "the Tribunal") has assessed compensation to the tune of Rs. 1,30,000/-, detailed hereinbelow:-

Monthly income of the deceased	Rs. 3000/-
Deduction for personal expenses	1/3rd
Multiplier	5
Loss of dependency	Rs. 24000 x5 =1,20,000/-
Funeral expenses	Rs. 10,000/-

Counsel for the claimants would urge that the Tribunal has wrongly applied multiplier of 5 in place of an appropriate multiplier of 11 as the deceased was less than 60 years of age, recorded in copy of the voter I-card. It is further argued that adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company, on the other hand, has supported the assessment with the plea that the 'Tribunal has rightly applied multiplier of 5 as age of the deceased in the post mortem report is recorded to be 70 years.

I have heard counsel for the parties, perused the paper book particularly the award.

Counsel for the insurance company has not disputed that in copy of the voter I-card of the deceased Mark A, his date of birth has been recorded according to which he was about 58 years old at the time of death. As per the settled position in law, proceedings before the Tribunal are summary in nature and do not admit of strict rules of evidence. In the face of copy of voter I-card, Tribunal has wrongly relied upon the post mortem report for determining age of the deceased. As the deceased was 58 years old, admissible multiplier would be 9. Accordingly, loss of dependency comes to Rs. 24000 x9= 2,16,000/-.

Under conventional heads, claimants shall be entitled to following compensation in the light of judgment of Hon'ble the Supreme Court of India **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270**:-

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

The total compensation is **Rs. 2,86,000/-** and the additional amount is **Rs. 1,56,000-** (2,86,000 – 1,30,000). The additional amount shall carry interest at the rate of 7.5% per annum from the date of petition till realization payable to widow of the deceased, to be invested in a fixed deposit for a period of three years. All other terms and conditions of the award shall remain intact.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

14.12.2017
PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No