IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO No. 2643 of 2015 (O&M)
Date of Decision: August 18, 2017

Sarabjit Kaur and others ..*Appellants*

Versus

Rattan Singh and others ..*Respondents*

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present:- Mr. Gaurav Gupta, Advocate
for the appellants.

Mr. Maninder Arora, Advocate
for respondents no.1 & 2.

Mr. Gopal Mittal, Advocate
for respondent no.3-insurance company

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REKHA MITTAL, J. (oral)

The claimants are in appeal seeking enhancement of compensation in regard to death of Ashwani Kumar, in a motor vehicular accident that took place on 30.04.2013.

The Motor Accidents Claims Tribunal, Ropar (hereinafter to be referred as 'the Tribunal') assessed income of the deceased at Rs.12,046/- per month, deducted 1/3rd for personal expenses and adopted a multiplier of 13 to compute loss of dependency to the tune of Rs.12,52,836/-. In addition, an amount of Rs.50,000/- for loss of consortium and Rs.20,000/- for funeral expenses has been awarded making total compensation to Rs.13,22,836/- payable with interest @ 8% per annum from the date of petition till payment.

Counsel for the appellants would urge that the Tribunal has not allowed benefit of increase in income for future prospects. Compensation awarded under conventional heads needs re-look and enhancement.

Counsel representing the insurance company has supported the award with the submission that adequate compensation has been paid to the claimants. Counsel representing respondents no.1 & 2 has echoed the arguments advanced by counsel for the insurance company.

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

The deceased was working as Home guard in the office of District Commander, Punjab Home Guards, Ludhiana and his income has been assessed on the basis of salary record Ex.P3 to P7. The deceased was less than 50 years of age at the time of his unfortunate demise. In the light of judgments of Hon'ble the Supreme Court ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) R.C.R. (Civil) 77*** and ***Rajesh and others vs Rajbir Singh and others 2013(3) RCR (Civil) 170,*** income for future prospects to the extent of 30% is added for the purpose of loss of dependency. The mere fact that a reference is pending consideration before a larger Bench of Hon'ble the Supreme Court of India in view of reference made in ***National Insurance Company Limited v. Pushpa*** *(SLP (c) No. 16735 of 2014, decided on 02.07.2014)* and the observations made by the Apex Court in ***Shashikala and others v. Gangalakshmamma and another, 2015 ACJ 1239*** is not sufficient to deny benefit of future prospects till the judgment in *Rajesh's* case (supra) is varied or set aside. After adding 30%, loss of dependency comes to **Rs.16,28,686.80**(12,52,836.00 + 3,75,850.80 (30% F.P.).

Under conventional heads, an amount of Rs.1,00,000/- for loss of consortium to widow, Rs.25,000.00 for funeral expenses and last rites, Rs.1,50,000.00 for loss of love and affection, care and guidance to children and Rs.25,000.00 for loss of estate is awarded making total compensation to **Rs.19,28,686.80** (16,28,686.80 + 1,00,000 + 25,000 + 1,50,000 + 25,000) and additional amount is **Rs.6,05,850.80** which shall carry interest @ 7.5% per annum from the date of petition till realization, to be paid to the claimants in the ratio determined by the Tribunal.

The appeal is partly allowed.

(REKHA MITTAL)
JUDGE

August 18, 2017
mohan bimbra

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