In the High Court of Punjab and Haryana at Chandigarh

FAO-2544 of 2016(O&M)
Date of Decision: 10.10.2017

Bala and others

---Appellants

versus

Harish Chandra and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr.B.S.Tewatia, Advocate
for the appellants
Ms.Vikas Chaudhary, Advocate,
for the insurance company

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Rekha Mittal, J.

The claimants are in appeal seeking enhancement of compensation with regard to death of Rameshwar @ Rejesh in a motor vehicular accident that took place on 28.11.2014.

The Motor Accidents Claims Tribunal, Palwal (in short “the Tribunal”) has awarded compensation of Rs. 11,48,400/- detailed hereunder:-

Monthly loss of income	*Rs. 8000/-*
Deduction for personal expenses	*1/5th*
Multiplier	*13*
Loss of dependency	*Rs. 76,800 x 13 =Rs. 9,98,400/-*
Expenses on transportation and last rites	*Rs. 20,000/-*
Loss of love and affection	*Rs. 30,000/-*
Loss of consortium	*Rs. 1,00,000/-*

Counsel for the appellants has submitted that the deceased was

38 years old, therefore, admissible multiplier would be 15. Compensation awarded under conventional heads needs enhancement. No compensation has been awarded for increase in income for future prospects.

Counsel representing the insurance company, on the contrary has opposed the prayer for grant of future prospects on the premise that the matter with regard to grant of future prospects is pending consideration before a Larger Bench of Hon'ble the Supreme Court of India in view of reference made in ***National Insurance Co. Limited vs. Pushpa.***

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

The deceased was 38 years old at the time of occurrence. He left behind a family consisting of his widow, four minor children and widowed mother. There is nothing on record suggestive of the fact that the deceased was suffering from any disability affecting his capacity to work and earn livelihood for himself and his family. The deceased would not have stagnated at income of Rs. 8000/-, had he remained alive particularly in the face of fact that the State Governments revise minimum wages periodically after a short interval.

The Tribunal has applied cut of $1/5^{th}$ for computing loss of dependency. Keeping in view the number of claimants held entitled to get compensation, admissible deduction would be $1/4^{th}$. There is no dispute that the deceased was 38 years old. Taking a clue from judgment of Hon'ble the Supreme Court of India **Smt.Sarla Verma and others vs. Delhi Transport Corporation and another 2009 ACJ 1298,** admissible multiplier would be 15 in place of 13.

The Tribunal has an obligation to assess just and reasonable compensation. The Court of Appeal is competent to examine all the aspects of the matter in order to ensure that compensation assessed by the Tribunal is just and reasonable. The claimants cannot be denied benefit of increase in income for future prospects or interest thereon merely because a reference is pending before a Larger Bench of Hon'ble the Supreme Court till the judgment ***Rajesh and others vs. Rajbir Singh and others 2013(3) RCR (Civil) 170*** is varied or set aside. Under the circumstances, by allowing deduction to the extent of $1/4^{th}$ but extending benefit of increase in income for future prospects to the extent of 50%, loss of dependency comes to Rs. 9000 x 12 x 15 = 16,20,000/-.

Under conventional heads, loss of consortium of Rs. 1,00,000/- awarded by the Tribunal is affirmed. The claimants shall be entitled to additional compensation under following heads:-

Loss of love and affection to children of the deceased	Rs. 3,00,000/-
Expenses on transportation and last rites	Rs. 25,000/-
Loss of estate	Rs. 25,000/-
Loss of love and affection to mother	Rs. 50,000/-

In this manner, total compensation comes to Rs.21,20,000 and the additional amount is Rs. 9,71,600/- (21,20,000 – 11,48,400).The additional amount shall carry interest @ 7.5% per annum from the date of petition till realization payable to the children of the deceased except the amount of Rs. 50,000/- awarded to the mother. Amount falling to share of the children shall be deposited in Fixed Deposit Receipts for a period of three years or till they (minors) attain the age of majority, whichever is later. The claimants shall not be entitled to raise any loan against the FDRs. The interest accruing on the FDRs shall be paid to their mother for meeting expenses on their education and living.

(Rekha Mittal)
Judge

10.10.2017
PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No