IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5942 of 2014 (O&M)
Date of Decision: February 06, 2017

Gurpreet Singh and others

..Appellant(s)

Versus

P.K. Verma & Co. and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Ms. Kiran Verma, Advocate
for the appellants.

Mr. Pratik Mahajan, Advocate
for respondent no.1.

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ANITA CHAUDHRY, J.

This is the claimants' appeal seeking enhancement in the award passed by the Motor Accident Claims Tribunal, Amritsar.

Harjinder Kaur met with an accident on 30.06.2013 and died on the spot. Her legal heirs, the husband and two minor children filed a claim petition seeking compensation. The income of the deceased was stated to be Rs.8,000/- per month. The Tribunal noted that no evidence had been led to prove the income, however, she was taken to be a house-wife and her income was assessed at Rs.4,500/-. A deduction of 1/3rd was made towards personal expenses and the compensation was calculated at Rs.6,12,000/-. A sum of Rs.5,000/- was added for loss of estate and Rs.5,000/- as funeral expenses. A sum of Rs.6,22,000/- was allowed, which was to be paid by all the respondents jointly and severally. A sum of Rs.1,22,000/- was allowed to claimant no.1. The share of the minors was to be deposited in the fixed deposit.

The submission on behalf of the appellants-claimants is that no deduction should have been made as the deceased was a house-wife. The counsel refers to ***ICICI Lombard General Insurance Company Ltd. Vs. Ram Niwas and others,*** FAO No.482 of 2010 (P&H), decided on 27.04.2010. It was urged that the Tribunal had not awarded any interest and had ordered that if the compensation amount was paid within two months then no interest was payable and only if there was a delay then the claimants were entitled to interest @ 6%. It was urged that they were entitled to a higher amount for loss of estate, funeral expenses and for loss of consortium.

The submission on the other hand was that deduction has to be made even in the case of a house wife. Reliance was placed upon ***Jitendra Khimshankar Trivedi and others Vs. Kasam Daud Kumbhar and others 2015(1) RCR (Civil) 828***.

There is no dispute regarding the age of the deceased nor the income assessed of the deceased is in issue. Even otherwise there is no evidence that the minimum wages were higher than what has been allowed by the Tribunal. The multiplier was also correctly applied and calculation has to be made for personal expenses even in a case of housewife. Reference be made to ***Jitendra Khimshankar Trivedi's*** case (supra) but I find that the Tribunal had not allowed compensation on number of heads which I propose to add. The Tribunal had not awarded compensation under the conventional heads and only a sum of Rs.5,000/- was awarded towards loss of estate and Rs.5,000/- as funeral expenses. I would add Rs.1 lac towards loss of consortium and Rs.1 lac towards loss of love & affection for the minor children. I would also add Rs.20,000/- as funeral expenses and Rs.95,000/- as loss of estate (Rs.5,000/- had already been allowed by the Tribunal). The total compensation thus payable would be Rs.3,15,000/-.

The appellants had raised the issue of interest. Record reveals that the claim petition had been filed in March, 2013. Issues were framed in November, 2013. The claimants had closed its evidence on 24.12.2013 and only one date was given to the insurance company i.e. on 17.01.2014 and the award has been passed four days later i.e. on 22.01.2014. The entire compensation amount had been paid within the time limit given to the insurance company. There is no delay on the part of the insurance company. The matter had been decided within two months of framing of issues. In this situation, the order passed by Tribunal cannot be faulted with.

As a result of the aforesaid discussion, the appeal is partly allowed. The appellants are allowed compensation of Rs.3,15,000/-, which would be payable in the same ratio that was allowed to the claimants by the Tribunal with interest at the same rate as allowed by the Tribunal from the date of filing of the appeal till realization.

The share of the minors would be deposited in the fixed deposit and remain deposited till they attain majority.

The award is modified to the extent noted above.

(ANITA CHAUDHRY)
JUDGE

February 06, 2017
sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No