In the High Court of Punjab and Haryana at Chandigarh

FAO-5221 of 2015(O&M)
Date of Decision: 8.12.2017

Rajni and others

---Appellants

versus

Devender Sharma and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: None for the appellants
None for respondent No. 1
Mr. Ajit Kumar, Advocate
for Mr. R.D.Yadav, Advocate
for respondent No. 2
Mr. D.K.Prajapati, Advocate,
for respondent No. 3

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Rekha Mittal, J.

The claimants are in appeal seeking enhancement of compensation in regard to death of Inderpal in a motor vehicular accident that took place on 8.6.2014.

The Motor Accidents Claims Tribunal, Mewat (in short "the Tribunal") assessed compensation to the tune of Rs.6,68,000/-, detailed hereinbelow:-

Monthly income of the deceased	Rs.4000/-
Deduction for personal expenses	1/4th
Multiplier	18
Loss of dependency	3000x12x18=6,48,000
Loss of consortium, love and affection and expenses on last rites	Rs. 20,000/-

Counsel representing the insurance company would urge that adequate compensation has been allowed by the Tribunal. It is further argued that as the claimants failed to adduce clear much less cogent evidence with regard to income of the deceased, his income has been rightly assessed at Rs. 4000/- per month.

Inderpal aged about 24 years met an unfortunate end on the fateful day i.e. 8.6.2014. The application for compensation has been filed by his widow, two minor children aged 2 & 1 year and the parents. The plea of the claimants is that the deceased was earning Rs. 15,000/- per month but they failed to adduce sufficient evidence to substantiate their plea in this regard. The Tribunal has assessed income of the deceased on the basis of approximation but nothing has been mentioned therein as to what criteria was followed even to arrive at a figure of Rs. 4,000/- per month. The deceased left behind family consisting of his widow and two minor children. There is nothing on record suggestive of the fact that he was suffering from any disability to impair his capacity to work and earn livelihood for himself and his family. Taking a clue from the minimum wage available to an unskilled worker at the relevant time fixed by the State of Haryana, income of the deceased is assessed at Rs. 5700/- per month. The claimants shall be entitled to increase in income to the extent of 40%. The deduction for personal expenses and multiplier applied by the Tribunal are affirmed being in consonance with enunciation laid down in **Smt.Sarla Verma and others vs. Delhi Transport Corporation and another 2009 ACJ 1298**. In this manner loss of dependency comes to 5700 x12 x 18=Rs. 12,31,200 + 4,92,480 =17,23,680 – 4,30,920=**Rs.12,92,760/-**.

Under conventional heads, claimants shall be entitled to following compensation in the light of judgment of Hon'ble the Supreme Court of India in **Special Leave Petition (Civil) No. 25590 of 2014 National Insurance Company Limited vs. Pranay Sethi and others** decided on 31.10.2017:-

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

The total compensation comes to **Rs. 13,62,760/-** and the additional amount is **Rs. 6,94,760/-** (13,62,760 – 6,68,000). The additional amount shall carry interest at the rate of 7.5% per annum from the date of petition till realization payable to the widow and children of the deceased in the ratio 20:40:40. The amount falling to share of the children shall be kept in fixed deposits payable on their attaining the age of majority or for a period of three years, whichever is later. The interest accruing on the FDRs shall be payable to mother of the minors for meeting expenses on their education and living.

Appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

8.12.2017
PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No