

In the High Court of Punjab and Haryana at Chandigarh

FAO- 5789 of 2015
Date of Decision:3.10.2017

Miss Puja (Minor) and others

---Appellants

vs.

Vinod Kumar and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Ms. Gurjit Kaur Sandhu, Advocate
for Mr. H.S.Sandhu, Advocate
for the appellants
Mr. Vinod Gupta, Advocate
for respondent No. 3

Rekha Mittal, J.

The claimants are in appeal seeking enhancement of compensation in regard to death of Suraj Bhan in a motor vehicular accident that took place on 18.2.2012.

The Tribunal has awarded compensation of Rs. 13,95,000/-, detailed hereunder:-

1	Monthly income of the deceased	Rs. 10,000/-
2	Deduction for personal expenses	1/4 th
3	Multiplier	13
	Loss of dependency	Rs. 90,000 x 13 = Rs 11,70,000/per annum
5	Loss of consortium	Rs. 1,00,000/-
6	Loss of love and affection, care and guidance	Rs. 1,00,000/-
7	Funeral expenses	Rs. 25,000/-

Counsel for the appellants has pressed for enhancement of compensation on few counts. It is argued that the Tribunal has not allowed benefit of increase in income for future prospects. The compensation under conventional heads needs enhancement.

Counsel representing the insurance company, on the contrary, would urge that the Tribunal has taken a very lenient view while assessing income of the deceased at Rs. 10,000/- per month, therefore, the claimants are not entitled to addition in income qua future prospects.

The plea of the claimants is that the deceased was working as a truck driver with Karnal Transport Company. Parmal Singh PW1, cousin of the deceased deposed that Suraj Bhan was working as driver with Karnal Transport Company but he failed to tell name of owner of the said transport company. It is not disputed that the claimants did not examine a witness from Karnal Transport Company to prove employment and income of the deceased. However, the claimants produced on record driving licence Ex. P-3 as an evidence that Suraj Bhan was authorized to drive heavy vehicle. The deceased was 46 years old at the time of accident. When the case is examined in the light of minimum wage available to a casual worker at the relevant time fixed by the State of Haryana, income of the deceased plus additional sum qua future prospects at the rate of 30% in view of his age being 46 years cannot be more than Rs. 10,000/- per month, assessed by the Tribunal.

Counsel for the appellants has not disputed correctness of the multiplier and deduction for personal expenses. In this view of the matter, assessment qua loss of dependency made by the Tribunal is liable to be

affirmed and ordered accordingly.

Compensation awarded by the Tribunal for loss of consortium to the widow to the tune of Rs. 1,00,000/- and expenses on funeral Rs. 25,000/- is ordered to be affirmed. The deceased left behind three minor children namely Pooja, Ajay Kumar and Rahul. They are awarded an amount of Rs. 2.25 lakhs (to be shared equally) for loss of love and affection, care and guidance of their father. The mother of the deceased is awarded an amount of Rs. 50,000/- for loss of love and affection. The claimants shall be entitled to Rs. 25,000/- for loss of estate. The additional amount of Rs. 2,00,000/- [(Rs. 4,25,000 – 2,25,000 (awarded by the Tribunal)] shall be payable to children of the deceased except Rs. 50,000/- awarded to mother for loss of love and affection. The amount falling to share of the children shall be deposited in fixed deposit receipt till they attain the age of majority or for a period of three years, whichever is later.

The appeal stands disposed of accordingly.

(Rekha Mittal)
Judge

3.10.2017
paramjit

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