IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5830 of 2015 (O&M)
Date of decision: 07.11.2017

Nashima and others ...Appellants

Versus

Bobby Danial and others ...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Ms. Ekta Thakur, Advocate
for the appellants.

Mr. Chandandeep Singh, Advocate
for respondent No.3.

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REKHA MITTAL, J. (Oral)

CM No.18323-CII of 2015

Heard.

For the reasons stated in the application supported by affidavit of Nashima wd/o Anwar Ali, same is allowed. Delay of 68 days in filing the appeal is condoned.

Main Case

The claimants are in appeal seeking enhancement of compensation in regard to death of Anwar Ali in a motor vehicular accident that took place on 07.12.2010.

The Tribunal has awarded compensation to the tune of Rs.7,77,600/-, detailed hereunder:-

Monthly income of the deceased	Rs.3000/-
Deduction for personal expenses	10%
Addition qua future prospects	50%
Multiplier	16
Loss of dependency	Rs.3000 x 12 x 16 + 50% (future prospects) – 10% (deduction for personal expenses) = Rs.7,77,600/-

Counsel for the claimants would urge that there is no challenge to plea of the claimants and so also testimony of Nashima PW1 widow of the deceased that Anwar Ali was a Mason by profession. It is argued that minimum wage of a skilled labour at the relevant time in State of Punjab was approximately Rs.4500/- per month. Another submission made by counsel is that the Tribunal has applied multiplier of 16 whereas appropriate multiplier in the light of judgment of Hon'ble the Supreme Court **Sarla Verma & Ors Vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77** is 17. Adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company, on the contrary, would argue that admissible deduction for personal expenses should be $1/4^{th}$ in place of 10%. The claimants are entitled to addition in income for future prospects to the extent of 40% in place of 50%.

I have heard counsel for the parties, perused the paper book particularly award dated 16.01.2015.

Counsel for the insurance company would fairly inform that during the course of evidence, there is no challenge to plea of the claimants that deceased was a Mason by profession. Under the circumstances, taking into consideration the minimum wage of a skilled labour available at the relevant time, income of the deceased is assessed at Rs.4400/- per month.

The Tribunal has allowed benefit of increase in income for future prospects to the extent of 50%. In the light of enunciation laid down in latest judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors.** Special Leave Petition (Civil) No. 25590 of 2014, decided on 31.10.2017, addition in income for future prospects would be 40%.

The Tribunal has wrongly allowed deduction for personal expenses to the extent of 10% but the admissible deduction would be $1/4^{th}$ in the light of ratio laid down by Hon'ble the Apex Court in Sarla Verma's case (supra).

The Tribunal has applied multiplier of 16 for computing loss of dependency. In the postmortem report, age of the deceased is mentioned to be 30 years. There is no rebuttal to plea of the claimants that the deceased was less than 30 years of age. As such, admissible multiplier in the given circumstances would be 17. In this manner, loss of dependency comes to Rs.4400 x 12 x 17 + 40% (future prospects) - $1/4^{th}$ (deduction for personal expenses) = Rs.9,42,480/-.

The claimants shall be entitled to following compensation under conventional heads in the light of judgment in Pranay Sethi's case (supra):-

Loss of consortium to the widow	Rs.40,000/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-
Total	**Rs.70,000/-**

The total compensation comes to Rs.10,12,480/- and the additional amount is Rs.2,34,880/- (10,12,480 – 7,77,600). The additional amount shall carry interest @7.5% per annum from the date of petition till realization, payable to widow of the deceased to the extent of 25% and the remaining 75% in equal share to minor children of the deceased. The share of minor children shall be deposited in FDRs payable on their attaining age of majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

07.11.2017 **(REKHA MITTAL)**
ashok **JUDGE**

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