IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.7526 of 2014

Date of Decision: 25.9.2017

Shingara Singh and another

..Appellants

Vs.

Ramesh Kumar and others

..Respondent

CORAM: HON'BLE MRS.JUSTICE REKHA MITTAL

Present: Mr.L.S.Sandhu, Advocate for the appellant.

Mr.Amit Kundra, Advocate for respondent No.2.

REKHA MITTAL, J.

The claimants are in appeal seeking enhancement of compensation in regard to death of Surinder Singh in a motor vehicular accident that took place on 19.8.2009.

The Tribunal assessed income of the deceased at Rs.2500/- p.m., deducted 50% for personal expenses and applied multiplier of 16 to compute loss of dependency at Rs.2,40,000/-. In addition, an amount of Rs.10,000/- for funeral expenses has been awarded making total compensation to Rs.2,50,000/-payable with interest @ 9% p.a. from the date of petition till realisation.

Counsel for the appellants would contend that the Tribunal has not allowed benefit of increase in income for future prospects. Compensation awarded under conventional heads needs enhancement.

Counsel representing the Insurance Company, on the contrary, would urge that application for compensation was filed under Section 163-A of the Motor Vehicles Act, 1988 (in short `the Act'), therefore, the claimants cannot ask for compensation more than what is provided in the Second Schedule appended to Section 163-A of the Act.

I have heard learned counsel for the parties and perused the paper book particularly the award dated 23.1.2012.

Be that as it may, it is undisputed position of the case that parents of Surinder Singh filed application for compensation by invoking Section 163-A of the Act. In a claim filed under Section 163-A of the Act, compensation is to be assessed by applying structured formula laid down in Second Schedule appended to Section 163-A of the Act. The Tribunal has assessed income of the deceased at Rs.2500/- p.m. on the basis of averments made by the claimants. However, the Tribunal has wrongly applied deduction to the extent of 50% but the same is required to be $1/3^{rd}$. The Tribunal has rightly applied multiplier of 16 to compute loss of dependency. In this manner, loss of dependency comes to Rs.3,20,000/-[Rs.4,80,000 (Rs.2500/-x12x16) – Rs.1,60,000/-($1/3^{rd}$ deduction towards personal expenses)]. The compensation payable to the claimants comes to Rs.3,30,000/- namely. Rs.3,20,000/- for loss of dependency and Rs.10,000/- under conventional heads. As compensation awarded by the Tribunal under conventional heads is more than what is provided in the Second Schedule, and the claimants cannot ask for compensation under conventional heads as admissible under Section 166 of the Act, therefore, no increase in compensation on this count is justified.

No other point has been raised.

For the foregoing reasons, the appeal is partly allowed. The claimants shall be entitled to additional amount of Rs.80,000/- payable with interest @ 7.5% p.a. from the date of petition till realisation.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

25.9.2017
Meenu

Whether speaking/reasoned - Yes/No
Whether Reportable - Yes/No