IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-8638-2014 (O&M)
Date of decision: 08.12.2017

SANTOSH AND ORS ...Appellants

Versus

MAHAVIR AND ORS ...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Kartar Singh Malik-1, Advocate
for the appellants.

Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate
for the insurance company.

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REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation in regard to death of Satyabir in a motor vehicular accident that took place on 09.12.2012.

The Tribunal has awarded compensation to the tune of Rs.10,61,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.8000/-
2. Multiplier	13
3. Deduction for personal expenses	1/4th
4. Loss of dependency	Rs.9,36,000/- (6000 x 12 x 13)
5. Loss of consortium	Rs.1,00,000/-

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6. Funeral expenses Rs.25,000/-

Counsel for the claimants has submitted that the deceased retired from Army and was getting pension @ Rs.14,500/- per month. It is established on record that he was working as Clerk with Sh. Baba Mast Nath Engineering College, Asthal Bohar, Rohtak at a salary of Rs.8000/- per month. Further argued that the Tribunal has assessed loss of dependency only on the basis of salary of the deceased at Rs.8000/- per month. The Tribunal has neither allowed credit of difference between pension paid to the deceased and family pension to widow of the deceased nor granted benefit of increase in income for future prospects. Adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company, on the contrary, would urge that as family of the deceased would be entitled to benefit of pension, claimants cannot assert their right for grant of pension paid to the deceased. Compensation under conventional heads allowed by the Tribunal is more than what is admissible in the light of latest judgment of Hon'ble the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and Ors. Special Leave Petition (Civil) No. 25590 of 2014, decided on 31.10.2017.**

Indisputably, the deceased retired from Army and was a pensioner @ Rs.14,500/- per month. The claimants produced on record document Ex.P7 i.e. PPO No.S/040501/2010 (Army). Perusal of the document would reveal that widow of the deceased shall be entitled to

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family pension at the rate of Rs.10,450/- per month upto 02.03.2029. Taking into consideration the difference between the pension allowed to the deceased and family pension payable to the widow, claimants shall be entitled to an amount of Rs.4050/- per month qua loss of pension. Loss of dependency qua loss of pension comes to Rs.4050 x 12 x 13 – 1/4th (deduction for personal expenses) = Rs.4,73,850/-.

There is no denial that the deceased was working as a Clerk with the aforesaid college at a monthly salary of Rs.8000/-. He was less than 50 years of age at the time of occurrence. The claimants are entitled to increase in income for future prospects to the extent of 25%. As such, loss of dependency qua loss of income comes to Rs.8000 x 12 x 13 + 25% (future prospects) – 1/4th (deduction for personal expenses) = Rs.11,70,000/-.

Compensation awarded by the Tribunal under conventional heads is modified to the extent that claimants shall be entitled to an amount of Rs.70,000/-, in this regard, detailed hereunder:-

1. Loss of consortium to the widow	Rs.40,000/-
2. Expenses on funeral/last rites	Rs.15,000/-
3. Loss of estate	Rs.15,000/-

The total compensation comes to Rs.17,13,850/- and the additional amount is Rs.6,52,850/- (17,13,850 – 10,61,000). The additional amount shall carry interest @ 7.5% per annum from the date of petition till realization, payable to widow of the deceased. The same shall be converted

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into FDR for a period of three years.

The appeal is partly allowed in the aforesaid terms.

08.12.2017 **(REKHA MITTAL)**
ashok **JUDGE**

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

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