IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.9890 of 2014 (O&M)
Date of decision: 11.12.2017

Paramjit Kaur and others ...Appellants

Versus

Shamsher Singh and others ...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Vivek Suri, Advocate for the appellants.

Mr. Satpal Dhamija, Advocate for the insurance company.

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<u>REKHA MITTAL, J. (Oral)</u>

The claimants are in appeal seeking enhancement of compensation in regard to death of Shyam Lal in a motor vehicular accident that took place on 18.11.2013.

The Tribunal has allowed compensation to the tune of Rs.7,06,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.4500/-
2. Deduction for personal expenses	1/3rd
3. Multiplier	16
4. Loss of dependency	Rs.5,76,000/- (36000 x 16)
5. Loss of consortium	Rs.1,00,000/-
6. Loss of love and affection to claimants No.2 and 3	Rs.10,000/- each
7. Expenses on last rites	Rs.10,000/-

Counsel for the claimants would urge that income of the deceased assessed by the Tribunal is grossly inadequate and liable to be enhanced. It is argued that the deceased was working as a tailor, therefore, his income may be assessed on the basis of minimum wage of a skilled worker. Claimants are entitled to increase in income for future prospects to the extent of 40% as the deceased was less than 40 years of age. Adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company, on the contrary, would urge that statement of widow of the deceased that he was working as a tailor does not find corroboration from any source whatever. Compensation under conventional heads granted by the Tribunal is liable to be reduced in the light of latest judgment of the Constitution Bench 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.**

Counsel for the claimants has failed to point out any materials on record to substantiate their plea that the deceased was working as a tailor much less running a shop of tailoring business. There is no evidence on record with regard to educational/vocational/technical education of the deceased. Taking into consideration the minimum wage of an unskilled worker fixed by the State of Punjab and available at the relevant time, income of the deceased is assessed @ Rs.6200/- per month. As the deceased was less than 40 years of age, claimants are allowed benefit of increase in income for future prospects to the extent of 40%. The multiplier and deduction for personal expenses allowed by the Tribunal are affirmed. In this manner, loss of dependency comes to Rs.6200 x 12 x 16 + 40% (future prospects) – 1/3rd (deduction for personal expenses) = Rs.11,11,040/-.

Under conventional heads, the Tribunal has allowed more compensation than what is admissible in the light of latest enunciation of Hon'ble the Supreme Court in **Pranay Sethi's case** (supra). Claimants shall be entitled to an amount of Rs.70,000/- under conventional heads, detailed hereunder:-

1. Loss of consortium	Rs.40,000/-
2. Expenses on funeral	Rs.15,000/-
3. Loss of estate	Rs.15,000/-

The total compensation comes to Rs.11,81,040/- and the additional amount is Rs.4,75,040/- (11,81,040 – 7,06,000), payable with interest @ 7.5% per annum from the date of petition till realization to widow and children of the deceased in the ratio 40:30:30. The share of minors 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.

11.12.2017 **(REKHA MITTAL)**
ashok **JUDGE**

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