IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1300 of 2002
Date of Decision.11.01.2018

Savita and others ....Appellants

Vs

Ram Kishan and others ....Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. A.P. Bhandari, Advocate for the appellants.

Mr. Neeraj Khanna, Advocate for the insurance company.

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AMIT RAWAL J.(ORAL)

The appeal has been preferred by the legal representatives of deceased Shyam Lal, who unfortunately died in a motor accident on 28.7.1997. He was 25 years of age at the time accident and stated to be earning ₹5500/- to ₹6000/- per month by supplying Badarpur sand.

The Tribunal while assessing the compensation of ₹2,50,000/-, took the income of the deceased as ₹1800/- per month on the basis of minimum wages prevalent at the time of his death, applied a deduction of 1/3rd towards personal expenses and adopted a multiplier of 16. It further provided ₹19,600/- towards medical expenses which the claimants incurred on the treatment of deceased before his death.

Mr. Bhandari, learned counsel appearing for the appellants submits that the Tribunal has grossly erred in assessing the income of the deceased as ₹1800/- per month when there was a specific pleading that he was earning ₹5500/- to ₹6000/- per month. It did not provide anything for future prospects, much less, loss of consortium, loss of estate and funeral expenses. The choice of multiplier as 16 is also wrong whereas it should have been 18, thus, urges this Court for enhancement of compensation.

Per contra, learned counsel appearing for the insurance company submits that the Tribunal has taken care of all the heads of claim sufficiently and there is no further scope for enhancement, thus, urges this Court for dismissal of the appeal.

I have heard learned counsel for the parties and appraised the paper book. In the absence of any income proof, the Tribunal has rightly taken the income of the deceased as ₹1800/- per month, which I will retain. However, I will provide 40% increase on the same towards future prospects, make a deduction of 1/3rd towards personal expenses and adopt a multiplier of 18 to assess the loss of dependency as ₹3,62,880/-. I will further add to it ₹40,000/- for loss of consortium and ₹15,000/- each for loss of estate and funeral expenses.

In all, the compensation payable shall be ₹4,32,880/-. The amount in excess over what has already been provided by the Tribunal shall also attract interest @6% from the date of filing of the appeal till realization. The enhanced amount shall be distributed equally between the claimants. The liability shall remain the same as has already been determined by the Tribunal.

The award passed by the Tribunal is modified and the appeal is allowed to the above extent.

(AMIT RAWAL)
JUDGE

January 11, 2018
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No