202-5

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-611-2000 (O&M)
Date of decision : 24.01.2018

Paramjit Singh and others

... Appellant(s)

Versus

Lal Chand and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Vinod Kumar Kataria, Advocate
for the appellant(s).

Mr. Paul S. Saini, Advocate
for the respondent(s)/Insurance Company.

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AMIT RAWAL, J. (ORAL)

The present appeal has been filed by the claimants being three major sons and widow of Sukhdev Singh, who died in a motor accident occurred on 08.06.1995, for enhancement of the compensation against the award dated 01.09.1999 rendered by the Tribunal, whereby the compensation to the tune of ₹1,01,000/- along with interest 12% per annum has been awarded.

Learned counsel appearing on behalf of the appellants-claimants submits that the Tribunal has awarded the compensation to the tune of ₹1,01,000/-, which is on lower side. The deceased Sukhdev Singh was an agriculturist and was earning ₹ 12,000/- per month, but the Tribunal took the income of the deceased as ₹1,500/- per month. The Tribunal has wrongly applied the multiplier of '8' whereas it should have '9'. Moreover, no increase was made in the salary towards future prospects and the amount of ₹5,000/- towards loss of consortium and funeral expenses, is also too meagre, thus, there is scope for enhancement.

On the other hand, learned counsel appearing on behalf of the Insurance Company submits that the deceased was aged more than 60 years and the appellant/claimant Nos.1 to 3 are the major sons and they cannot be said to be dependent upon their parents. The Tribunal has wrongly applied the deduction of 1/3rd whereas it should have ½ as only the widow is dependent upon him, thus, there is no scope for further enhancement, thus, urges this Court for dismissal of the appeal.

I have heard the learned counsel for the parties and appraised the paper book and of the view that the deceased stated to have been earning ₹12,000/- per month, but no proof of income has been placed on record. The appellant/claimant Nos.1 to 3 are the major sons of the deceased and they cannot be said to be dependent upon the parents, therefore, the deduction should have been '½' instead of 1/3rd. Accordingly, in the absence of any proof of income, I take the income of the deceased as ₹1,500/-, which is minimum wages in the year 1995, but provide an increase of 10% towards future prospects. I will make a deduction of ½ instead of 1/3rd towards personal expenses and apply a multiplier of '9' to assess the loss of dependency as ₹89,100/-. I will further add to it ₹70,000/- towards conventional heads i.e. loss of consortium, loss of estate and funeral expenses as per the latest judgment dated 31.10.2017 rendered by Hon'ble the Supreme Court in ***SLP (Civil) No.25590 of 2014*** titled as ***"National Insurance Company Ltd. V/s Pranay Sethi and others".***

In all the compensation payable shall be ₹1,59,100/-. The amount in excess over what has already been provided by the Tribunal shall also attract interest @ 6% per annum from the date of filing of the appeal till its realization. The enhanced amount shall be awarded in favour of appellant No.4/Balbir Kaur, being the widow of Sukhdev Singh. The liability shall remain the same as has already been determined by the Tribunal.

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

(AMIT RAWAL)
JUDGE

24.01.2018
Yogesh Sharma

✓
Whether speaking/reasoned **Yes/ No**

✓
Whether Reportable **Yes/ No**