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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-789-2001
Date of decision : 08.02.2018

Krishna and others

... Appellant(s)

Versus

Raju and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. A.K. Singal, Advocate
for the appellants.

Ms. Shamsher Kaur, Advocate
for respondent No.3.

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AMIT RAWAL, J. (ORAL)

The appeal has been preferred by the claimants being widwo, two minor children and parents of Wazir Singh, aged 23 years, who unfortunately died in a motor accident occurred on 05.01.1999, for enhancement of compensation against the Award passed by the Tribunal, whereby a compensation of ₹4,55,497/- 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 ₹4,55,497/- which is on lower side as the deceased-Wazir Sigh was cultivating agriculture land and was running a dairy and earning ₹7,000/- per month, but the Tribunal took the income of the deceased as ₹2100/- per month. The Tribunal also awarded a sum of ₹ 91,697/- towards medical expenses and transportation.

He further submits that the Tribunal applied the multiplier of '17' whereas it should have '18' as the deceased at the time of accident was 23 years and deduction should have '1/4th' instead of '1/3rd'. Moreover, no increase was made in the salary towards future prospects and an amount of ₹15,000/- towards loss of consortium and ₹ 2,000/- for 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 Tribunal has taken care of all the heads sufficiently and 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 there is a scope of enhancement as the compensation to the tune of ₹4,55,497/- is on lower side, much less, the Tribunal wrongly applied the deduction of '1/3rd' instead of '1/4th' and multiplier of '17' instead of '18'. Accordingly, I take the income of the deceased as ₹2,100/- per month as has been taken by the Tribunal and provide 40% future prospects and apply a multiplier of '18' instead of 15, much less, deduction of '1/4th' to assess the loss of dependency as ₹4,76,280/-. I will also provide a sum of ₹91,697/- as awarded by the Tribunal towards medical expenses and transportation. However, 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 ₹6,37,977/-. 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 distributed amongst the appellants-claimants in the ratio of 2:2:2:1:1. 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

08.02.2018
Yogesh Sharma

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