IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 635 of 2002 (O&M)
Date of decision: 04.07.2018

Amarjit Kaur etc. .... *Appellants*

Versus

Mithu Singh and others ....*Respondents*

Coram: **Hon'ble Mrs. Justice Rekha Mittal**

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Present: Ms Vashali, Advocate
for the appellants

Mr. Jagjit Singh, Advocate
for respondent No. 1

Mr. K K Bheniwal, Addl. Advocate General, Punjab
for respondent No. 2

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Rekha Mittal, J. (Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Jugraj Singh in a motor vehicular accident that took place on 23.09.1998 while the deceased was travelling in Bus bearing No. PB 12C-9373 as he was working as Conductor with the Punjab Roadways.

The Tribunal has assessed compensation of Rs.5,80,000.00, detailed hereunder:-

Monthly income of the deceased	Rs.6,000.00
Deduction for personal expenses	$1/3^{rd}$
Multiplier	12
Loss of dependency	Rs.5,76,000.00
Funeral expenses	Rs.4,000.00

Counsel for the appellants would argue that the deceased was working as Conductor with Punjab Roadways, Muktsar and his last pay was Rs.6,003.00 per month. The claimants examined Major Singh, AG-II/Overtime Clerk, Punjab Roadways, Muktsar to prove that the deceased had been working overtime and was paid remuneration in regard thereto from August 1997 to September 1998, recorded in documents Ex.A2 to A15. It is argued with vehemence that the Tribunal should have allowed benefit of overtime payment while assessing income of the deceased. Claimants are entitled to benefit of increase in income for future prospects at the rate of 50% as the deceased was less than 40 years of age at the time of occurrence. Application for compensation was filed by the widow, three minors and mother of deceased and admissible deduction for personal expenses should be 1/4th. Compensation may be assessed by allowing appropriate multiplier and adequate amount under conventional heads.

Counsel for respondent No. 1 and 2 have supported the award with the submissions that the Tribunal has allowed just and reasonable compensation.

The claimants examined Satish Kumar, Senior Clerk, Punjab Roadways, Muktsar to prove that Jugraj Singh was working as Conductor with Punjab Roadways Muktsar and his last drawn pay was Rs.6,003.00 per month. Similarly, they examined another witness of Punjab Roadways, Muktsar Depot to prove over time payments from August 1997 onwards and documents Ex. A2 to A15. As overtime payment was a regular feature since August 1997, benefit thereof cannot be denied to claimants. On an average, deceased was getting more than Rs.4,000.00 per month as overtime payment. Accordingly, income of the deceased is assessed at Rs.10,000.00 per month. As has been rightly argued by counsel for the appellants, admissible deduction for personal expenses would be 1/4th.

Plea of the claimants is that the deceased was 39 years old at the time of occurrence. The Tribunal has held that the deceased was 42 years old on the basis of his age recorded in the post mortem report. The claimants, despite having examined witnesses from Punjab Roadways, have not produced evidence with regard to date of birth of the deceased recorded in his service record for the reasons best known. The postmortem report has been relied upon by the claimants. No other document has been produced by the claimants to substantiate their plea that deceased was less than 40 years of age. Under the circumstances, the deceased is to be treated being more than 40 years old and accordingly, claimants shall be entitled to benefit of increase in income for future prospects at the rate of 30%. As the deceased was in the age bracket of 41-45 years, multiplier of 14 is admissible. In this manner, loss of dependency is calculated at Rs.16,38,000.00 (Rs.16,80,000.00 *i.e.* 10,000 x 12 x 14 + Rs.5,04,000.00 (30% future prospects) – Rs.5,46,000.00 (1/4th deduction)).

Under conventional heads, claimants shall be entitled to Rs.70,000.00, in the light of judgment of Hon'ble the Supreme Court ***National Insurance Company Limited v. Pranay Sethi and others, 2017 SC 1270***, detailed hereunder:-

Loss of consortium to widow	Rs.40,000.00
Expenses of funeral and last rites	Rs.15,000.00
Loss of estate	Rs.15,000.00

Total compensation comes to Rs.17,08,000.00 (Rs.16,38,000 + Rs.70,000) and additional amount is Rs.11,28,000.00 (Rs.17,08,000.00 – Rs.5,80,000.00) payable with interest at the rate of 7.5% per annum from the date of petition till realization, to widow of the deceased, to be invested in a fixed deposit for a period of three years.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

04.07.2018
mohan bimbra

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