In the High Court of Punjab and Haryana at Chandigarh

FAO-2222 of 2004
Date of Decision: 8.1.2018

Chander Kala Devi and another

---Appellants

versus

Suman Kumar and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Vishneet Singh, Advocate
for Mr. S.S.Majithia, Advocate
for the appellants

Mr. Vinod Gupta, Advocate,
for the insurance company

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Rekha Mittal, J.

The unfortunate parents of deceased Parmod Shah have filed the instant appeal seeking enhancement of compensation on account of death of their son in a motor vehicular accident that took place on 16.2.2001.

The Tribunal has assessed compensation to the tune of Rs. 1,49,000/-, detailed hereunder:-

Monthly income of the deceased	Rs. 2400/-
Deduction for personal expenses	50%
Multiplier	10
Loss of dependency	Rs, 14,400 x 10=Rs.1,44,400/-
Expenses on funeral	Rs. 2500/-
Loss of estate	Rs. 2500/-

Counsel for the appellants has submitted that income of the deceased assessed by the Tribunal is on lower side. The Tribunal has not allowed benefit of increase in income for future prospects. Adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company has submitted that there is no justification for enhancement of compensation.

The Tribunal, in para 24 of the award, has noticed that driving licence of the deceased was not produced. Except bald statement of Smt. Chander Kala Devi, no other evidence has been produced to establish income of the deceased. Vinod Shah, owner of the auto rickshaw and brother of the deceased did not appear in the witness box to depose that the deceased was employed as driver by him. In view of minimum wage available at the relevant time, income assessed by the Tribunal at Rs. 2400/- per month cannot be faulted with. However, the claimants shall be entitled to increase in income for future prospects to the extent of 40%. As the deceased was 24 years old, admissible multiplier would be 18 in the light of judgments of Hon'ble the Supreme Court of India **Smt.Sarla Verma and others vs. Delhi Transport Corporation and another 2009 ACJ 1298**, **Munna Lal Jain vs. Vipin Kumar Sharma 2015(3) RCR(Civil) 447** and **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270.** Deduction for personal expenses allowed by the Tribunal is affirmed. In this manner, loss of dependency comes to Rs. 2400 x12 x 18 =5,18,400 + 2,07,360(40%)=7,25,760 – 3,62,880=**Rs. 3,62,880/-.**

Under conventional heads, claimants shall be entitled to an amount of **Rs. 30,000/-** namely Rs. 15000/- for expenses on funeral and another Rs. 15000/- for loss of estate.

The total compensation comes to **Rs.3,92,880/-** and the additional amount is **Rs. 2,43,880/-** (3,92,880 – 1,49,000), payable with interest at the rate of 7.5% from the date of petition till realization to mother of the deceased.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

8.1.2018
PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No