IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 09.08.2018

FAO No.3356 of 2005 (O&M)

Rosy Verma and another ... Appellants

Versus

Joginder Singh and others ... Respondents

FAO No.3355 of 2005 (O&M)

Sanjeev Kumar ... Appellant

Versus

Joginder Singh and others ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Ms. Navjot Kaur, Advocate for
Mr. Vishal Gupta, Advocate
for the appellants.

Mr. Sandeep Suri, Advocate
for the insurance company.

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REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.3355 and 3356 of 2005 as these have emerged out of the same award dated 01.02.2005 passed by the Motor Accidents Claims Tribunal, Yamuna Nagar at Jagadhri.

FAO No.3355 of 2005 has been filed by Sanjeev Kumar, injured seeking enhancement of compensation whereas FAO No.3356 of 2005 has been filed by Rosy Verma and another for the same relief.

FAO No.3356 of 2005

The Tribunal has awarded compensation of Rs.3,35,900/- (rounded of to Rs.3,36,000/-), detailed hereunder:-

1. Monthly income of the deceased	Rs.2400/-
2. Multiplier	17
3. Deduction for personal expenses	$1/3^{rd}$
4. Loss of dependency	Rs.3,26,400/-
5. Expenses on funeral	Rs.2000/-
6. Loss of estate	Rs.2500/-
7. Loss of consortium	Rs.5000/-

The plea of the claimants is that the deceased was getting salary of Rs.5000/- per month as he was working with M/s Soni Jewellers, a proprietorship concern of Sanjeev Kumar, brother of the deceased. On a detailed consideration of the materials on record including the income tax return filed by Sanjeev Kumar proprietor of M/s Soni Jewellers, the Tribunal refused to rely upon testimonies of Rosy Verma and Hardial Chand PW6 that deceased was getting salary @ Rs.5000/- per month. The Tribunal has noticed that in the income tax return Ex.P18 of Sanjeev Kumar, total income of Sanjeev Kumar was Rs.62,110/- per annum which roughly comes to Rs.5000/- per month. Taking into consideration well founded findings recorded by the Tribunal coupled with the minimum wage of an unskilled labour available at the relevant time, there is no justification for enhancement of income of the deceased. However, the claimants shall be entitled to benefit of increase in income for future prospects @ 40%. Deduction for personal expenses allowed by the Tribunal is correct and affirmed.

The Tribunal has applied multiplier of 17 on the basis of age of the deceased recorded in the postmortem report i.e. about 30 to 35 years. Claimants have failed to adduce any clear evidence with regard to age of the deceased much less his date of birth. In the given scenario, admissible multiplier would be 16. In this manner, loss of dependency is calculated at Rs.4,30,080/- [(Rs.2400 x 12 x 16) + (40% future prospects) – (1/3rd deduction for personal expenses)].

Under conventional heads, claimants shall be entitled to Rs.70,000/-, detailed hereunder:-

1. Loss of consortium	Rs.40,000/-
2. Loss of estate	Rs.15,000/-
3. Funeral expenses	Rs.15,000/-

Total compensation is Rs.5,00,080/- and the additional amount is Rs.1,64,080/- (5,00,080 - 3,36,000), payable with interest @ 7.5% per annum from the date of petition till realization, to the claimants in terms of the award.

The appeal is partly allowed in the aforesaid terms.

FAO No.3355 of 2005

With regard to injuries sustained by Sanjeev Kumar, the Tribunal has awarded compensation of Rs.15,000/-, detailed hereunder:-

1. Expenses on medical treatment	Rs.6000/-
2. Pain and sufferings	Rs.5000/-
3. Loss of income	Rs.4000/-

Counsel for the appellant would urge that as the injured sustained fracture of 5^{th} and 6^{th} rib, he could not maintain all the bills with regard to expenses on his medical treatment. He remained admitted in Kohli Hospital, Jagadhri from 02.12.2002 to 10.12.2002. The compensation allowed by the Tribunal under various heads is on lower side.

The Tribunal, in para 17 of the award, has referred to the documents and medical evidence in view of the testimony of Dr. Rajnish Mehta that claimant suffered grievous injuries and fracture of 5^{th} and 6^{th} rib. Taking into consideration nature of injuries sustained coupled with the period of treatment, interest of justice would be served, if the claimant is allowed additional sum of Rs.5000/- towards expenses on transportation, special diet and under the heads already taken care of by the Tribunal. The additional amount of Rs.5000/- shall be payable with interest @ 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

(REKHA MITTAL)
JUDGE

09.08.2018
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Whether speaking/reasoned: Yes / No
Whether reportable: Yes / No