IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-5488-2005 (O&M)
Date of decision: 08.01.2018

NEELAM RANI & ORS ...Appellants

Versus

HARJIT SINGH & ORS ...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Mukesh Verma, Advocate for
Mr. Amit Mehta, Advocate
for the appellants.

Mr. Vinod Gupta, Advocate
for the insurance company.

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REKHA MITTAL, J. (Oral)

CM No.25683-CII of 2005

Heard.

Allowed as prayed for. Delay of 18 days in re-filing the appeal is condoned.

Main Case

The claimants are in appeal seeking enhancement of compensation in regard to death of Sadhu Ram Kataria in a motor vehicular accident that took place on 29.09.2002.

The Tribunal has awarded compensation to the tune of Rs.7,00,000/-, detailed hereunder:-

1. Monthly income of the deceased Rs.8375/-

2. Multiplier	13
3. Deduction for personal expenses	1/3rd
4. Loss of dependency	Rs.6,94,200/- (53,400 x 13)
5. Expenses on funeral	Rs.5800/-

Counsel for the appellants has submitted that the deceased was drawing salary of Rs.13,357/- per month but the Tribunal has wrongly taken into consideration only basic salary of Rs.8375/- per month for computing loss of dependency. The admissible multiplier in the light of judgment of Hon'ble the Supreme Court **Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77** would be 14 in place of 13. Claimants are entitled to increase in income for future prospects to the extent of 30%. Adequate compensation may be allowed under conventional heads in the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270.**

Counsel representing the insurance company has supported the award and submitted that adequate compensation has been awarded to the claimants.

The Tribunal in para 12 of the award has noticed that gross salary of deceased was Rs.13,357/- out of which an amount of Rs.2335/- was deducted towards contribution to GPF and Rs.200/- towards income tax. The amount deducted towards GPF was available to the deceased for withdrawal and use, therefore, it is not amenable to deduction for computing loss of dependency. The annual salary of the deceased was

Rs.13,357 x 12 = Rs.1,60,284/-. After deducting income tax of Rs.23,189/-, income for computing loss of dependency comes to Rs.1,37,095/- (Rs.1,60,284 – 23,189). The deceased was a government teacher and in the age bracket of 41 to 45 years. Claimants shall be entitled to increase in income for future prospects to the extent of 30%. The admissible multiplier is 14 but deduction for personal expenses allowed by the Tribunal is affirmed. In this manner, loss of dependency comes to Rs.16,63,419/- (1,37,095 x 14) + (30% future prospects) – (1/3rd deduction for personal expenses).

Under conventional heads, claimants shall be entitled to compensation of Rs.70,000/- in the light of judgment in **Pranay Sethi's case** (supra), detailed hereunder:-

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

The total compensation comes to Rs.17,33,419/- and the additional amount is Rs.10,33,419/- (17,33,419 – 7,00,000), payable with interest @ 7.5% per annum from the date of petition till realization to widow of the deceased, to be invested in FDR for a period of three years.

The appeal is partly allowed in aforesaid terms.

08.01.2018 **(REKHA MITTAL)**
ashok **JUDGE**

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