In the High Court of Punjab and Haryana at Chandigarh

FAO- 4555 of 2009
Date of Decision: 16.10.2018

Smt. Sushila Devi and others

---Appellants

versus

Jitender and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Anurag Jain, Advocate
for the appellants

Mr. Deepak Sharma, Advocate
for respondent No. 1

Mr. Vipul Sharma, Advocate
for Mr. Paul S.Saini, Advocate
for the insurance company/respondent No. 3

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Rekha Mittal, J.

The claimants are in appeal seeking enhancement of compensation on account of death of Jai Bhagwan in a motor vehicular accident that took place on 3.5.2004.

The Motor Accidents Claims Tribunal, Hisar (in short "the Tribunal") has awarded compensation of Rs.2,74,000/-, detailed hereunder:-

Monthly income of the deceased	Rs. 3000/-
Deduction for personal expenses	1/3rd
Multiplier	11
Loss of dependency	Rs. 2,64,000/-
Expenses on transportation of dead body and last rites	Rs. 10,000/-

The Tribunal has assessed income of the deceased at Rs. 3000/-

per month by taking him as a casual labour. The plea of the claimants is that the deceased was working with Jindal Stainless Limited, Delhi Road, Hisar at salary of Rs. 10,127/- per month. Sushila Devi widow of the deceased appeared in the witness box and placed on record salary certificate Ex. P5. The Tribunal has noticed that claimants did not examine a witness from Jindal Stainless Limited to prove the deceased being employee of the said company much less drawing salary of Rs. 10,127/- per month. In the given scenario, the Tribunal has rightly refused to rely upon salary certificate Ex. P5 which does not get substantiate from any other materials on record. Taking a clue from notification issued by the State of Haryana fixing minimum wage at the relevant time, income of deceased is assessed at Rs. 2400/- per month.

The application for compensation has been filed by the widow and three children of Jai Bhagwan. Deduction for personal expenses would be $1/4^{th}$. Claimants shall be entitle to addition in income for future prospects @ 25%. As the deceased was in the age bracket of 46-50, admissible multiplier would be 13. In this manner, loss of dependency is calculated at Rs. 3,51,000/- [2400 x 12 x 13 = 3,74,400 + 93,600 (25%) = 4,68,000 – 1,17,000($1/4^{th}$)].

Under conventional heads, claimants shall be entitle to Rs. 1,90,000/-, detailed hereunder:-

Loss of consortium to each of the claimants	Rs. 1,60,000/- (Rs. 40,000/- each)
Expenses on last rites	Rs. 15,000/-
Loss of estate	Rs. 15,000/-

Total compensation is Rs. 5,41,000/- and the additional amount is Rs. 2,67,000/- (5,41,000-2,74,000), payable with interest @ 7.5% per annum from the date of petition till realization in terms of the award. The respondents before the Tribunal would be jointly and severally liable to pay compensation subject however to outcome of plea of the insurance company seeking right of recovery against the insured in pending appeal, FAO No. 3749 of 2009.

(Rekha Mittal)
Judge

16.10.2018
PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No