IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1900 of 2010
Date of Decision: 17.04.2018

Sona Devi & ors. ... Appellants

Versus

Rajinder Kumar & ors. .. Respondents

CORAM:- HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Mahavir Sandhu, Advocate,
for the appellants.

Ms. Vandana Malhotra, Advocate,
for respondent No.3-Insurance Company.

RAMENDRA JAIN, J.(Oral)

Claimants through this appeal have sought enhancement of compensation in respect of death of Raj Kumar by modifying impugned award dated 15.10.2009 of the Motor Accident claims Tribunal, Yamuna Nagar at Jagadhari (in short 'the Tribunal').

Short controversy to be resolved in this appeal is as to whether the appellants-claimant are entitled to compensation on the basis of revised salary of deceased Raj Kumar along with future prospects and the other incidental expenses.

In the instant case, deceased Raj Kumar met with an accident on 08.02.2006 and succumbed to his injuries on 24.02.2006. At the time of his death his total monthly salary was ₹17,264/-. However, after three years of his death, salary of the deceased Raj Kumar was revised to ₹20,760/- to be payable to him w.e.f. 01.01.2006 i.e. from the date earlier to his death.

Learned counsel for the Insurance Company submits that revised salary of the deceased Raj Kumar cannot be taken into consideration for grant of compensation to the appellants as the same was revised approximately after three years of his death.

However, this Court finds no merit in the submission of learned counsel for the Insurance Company for the reason that though the salary of the deceased Raj Kumar was revised after his death, but was made payable to him from 01.01.2006 i.e. the date earlier to his death. Therefore, definitely his employer i.e. the State of Haryana must have paid the arrears to the appellants-claimant of the revised salary of the deceased Raj Kumar.

Therefore, it is held that the appellants-claimant are entitled to get compensation on the basis of revised salary of the deceased at ₹20,760/-. That apart, according to principles laid down in National Insurance Company Ltd. Vs. Pranay Sethi & ors., 2017(4) RCR (Civil) 1009, 15% has to be added towards future prospects of the deceased to the aforesaid monthly income. After adding the same, the amount comes to ₹23,874/- and annually ₹2,86,488/-. In the relevant year, the deceased Raj Kumar was liable to pay income tax of ₹38,800/- on his annual income from salary. Therefore, after deducting the same, the net yearly income of the deceased comes to ₹2,47,688/-.

Undisputedly, the age of the deceased at the time of his death was 52 years. In view of *Pranay Sethi's case (supra)*, multiplier of 11 has to be applied to the said amount after deducting 1/3rd from it towards personal expenses of the deceased. On doing so, the compensation payable to the appellants-claimant comes to ₹18,16,378/-. A sum of ₹70,000/- has to be added further under conventional heads of consortium, loss of estate and funeral expenses. Therefore, total compensation payable to the appellants comes to ₹18,86,378/- + medical expenses ₹5,80,143/- = ₹24,66,000/-.

It is not disputed that a sum of ₹14,88,095/- including medical expenses has already been received by the claimants. Therefore, net enhanced compensation to be payable to the appellants remains ₹9,78,426/-. The impugned award is modified to this extent.

The Insurance Company is directed to deposit the amount of ₹9,78,426/- before the learned Tribunal within two months from today along with interest @ 7.5% per annum from the date of institution of the claim petition till realization for onward disbursement to the appellants in proportion so arrived at by it, in accordance with law against proper receipt and identification.

Non-compliance of this judgment would entail interest @12% per annum from the next two months till realization, only on the enhanced compensation amount.

With the above observation, the appeal stands disposed of.

17.04.2018 **(RAMENDRA JAIN)**
monika **JUDGE**

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*