In the High Court of Punjab and Haryana at Chandigarh

FAO- 1948 of 2010(O&M)
Date of Decision: 28.11.2018

Karamjit Kaur and others

---Appellants

versus

Harjinder Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Rajesh Bhatheja, Advocate
for the appellants

Mr. Pardeep Goyal, 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 Parvinder Singh in a motor vehicular accident that took place on 12.6.2007.

The Motor Accidents Claims Tribunal,Moga (in short "the Tribunal") has awarded compensation of Rs.7,23,000/-, detailed hereunder:-

Annual income of the deceased	Rs. 60,000/-
Deduction for personal expenses	1/3rd
Multiplier	18
Loss of dependency	Rs. 7,20,000/-
Expenses on last rites	Rs. 3,000/-

Counsel for the appellants would argue that deceased was a commission agent as well as an agriculturist. He filed income tax returns for the years 2004-05 and 2005-06, attested copies whereof are Exs. P-5 and P-6 respectively. It is argued that the Tribunal has computed loss of dependency by taking into consideration his income from business of commission agency but wrongly ignored income from agriculture to the tune of Rs. 1,65,000/- per annum. It is further submitted that this Court vide order dated March 10, 2017 allowed the appellants to place on record revenue document(s) qua income of the deceased from agricultural land and jamabandi for the year 2003-04 with regard to ownership of land measuring 139 kanal 2 marlas of Nihal Singh son of Surjan Singh and transfer of that land in favour of the deceased as per entry in red ink with regard to mutation No. 8473 may be taken on record. It is further argued that claimants are entitle to addition in income for future prospects and adequate compensation under conventional heads.

Counsel representing the insurance company has supported findings of the Tribunal whereby claimants have not been given benefit of income from agricultural land. It is further argued that agricultural land, if any, owned by Parvinder Singh would be available to family of the deceased, therefore, there is no question of any loss to family qua agricultural income. Another submission made by counsel is that as the deceased was 26 years old, multiplier of 17 should be applied.

I have heard counsel for the parties, perused the paper book particularly the award and copy of jamabandi for the year 2003-04, supplied by counsel for the appellants and taken on record.

The income tax returns Exs. P4 to P6 are referred to in para 12 of the award. As per latest return filed by deceased in the year 2006-07, agricultural income to the tune of Rs. 1,65,000/- per annum has been shown. The agricultural income of the deceased gets corroborated from jamabandi for the year 2003-04. As has been rightly argued by counsel for the insurance company that land left behind by the deceased would be available to his family, however, taking into consideration the extent of land owned by the deceased, claimants shall be entitle to loss of managing skills of deceased to look after the land. Taking a clue from minimum wage available at the relevant time coupled with that deceased was owner of agricultural land approximately 17 acres who was also running a commission agency business, loss of managerial services is assessed at Rs. 5000/- per month i.e. Rs. 60,000/- per annum. Total income of the deceased from business of commission agency and services qua agricultural land comes to Rs. 1,20,000/-. The Tribunal has rightly deducted 1/3rd qua expenses of the deceased. Claimants shall be entitle to increase in income qua future prospects @ 40%. As the deceased was 26 years old at the time of occurrence, admissible multiplier is 17. In this manner, loss of dependency is calculated at Rs. 19,04,000/-[1,20,000 x17= 20,40,000+8,16,000(40%) =28,56,000 -9,52,000-(1/3rd)].

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

Loss of consortium to widow	**Rs. 40,000/-**
Expenses on funeral	**Rs. 15,000/-**
Loss of estate	**Rs. 15,000/-**

Total compensation is Rs. 19,74,000/- and the additional amount is Rs. 12,51,100/- (19,74,000-7,23,000), payable with interest @ 7.5% per annum from the date of petition till realization, to be shared by widow and mother of the deceased in equal ratio, to be invested in fixed deposits for a period of three years.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

28.11.2018
PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No