IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3268 of 2010 (O&M)

Date of decision: 30.04.2018

BHUPINDER KAUR AND ORS ... Appellants

Versus

JAGDISH SINGH AND ANR. ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ashish Verma, Advocate
for the appellants.

Mr. Ankit Aggarwal, Advocate for
Mr. Anupam Singla, Advocate
for respondent No.2.

****

REKHA MITTAL, J. (Oral)

CM No.15371-CII of 2010

Heard.

Allowed as prayed for. Delay of 66 days in filing the appeal stands condoned.

Main Case

The claimants are in appeal seeking enhancement of compensation on account of death of Karamjit Singh in a motor vehicular accident that took place on 01.11.2006.

The Tribunal has awarded compensation of Rs.3,94,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.3000/-
2. Multiplier	16
3. Deduction for personal expenses	1/3rd
4. Loss of dependency	Rs.3,84,000/-
5. Expenses on funeral	Rs.10,000/-

Counsel for the claimants would argue that the Tribunal has not assessed loss of dependency qua income of the deceased from cultivation of land by making observation in the opening lines of para 19 of the award that claimants have failed to prove any jamabandi regarding land and RC of the tractor in the name of Karamjit Singh. It is argued with vehemence that the claimants marked as exhibits series of documents namely sale deeds Exs.P7 to P9, copies of jamabandis Exs.P15 to P17 and documents Ex.P12 and P13 to establish their plea that deceased was cultivating his own land as well as land on theka, therefore, claimants are entitled to loss of managing skills qua cultivation of land. The Tribunal has wrongly allowed deduction of 1/3rd in place of 1/4th as the application for compensation was filed by the widow, two minor children and parents of deceased Karamjit Singh. Claimants are entitled to benefit of addition qua future prospects to the tune of 40%. Adequate compensation may be allowed under conventional heads.

Counsel representing respondent No.2 has supported assessment of compensation with the plea that claimants have been adequately compensated. Further argued that testimonies of witnesses, Jagdev Singh PW5 and Gurpreet Singh PW6 cannot form the basis to record a finding that deceased had been cultivating land on theka as there is no document registered with regard to giving/taking of land on lease.

I have heard counsel for the parties, perused the paper book and the records.

The Tribunal has assessed income of the deceased at Rs.3000/- per month qua loss of income from dairy business on the basis of documents marked as exhibits. The Tribunal has seriously erred by holding that claimants have failed to produce copies of jamabandis. The claimants not only produced copy of jamabandis but also produced copies of sale deeds Exs.P7 to P9 whereby land was purchased by Karamjit Singh and Bharpoor Singh sons of Gurcharan Singh and share of Karamjit Singh was approximately 13 kanal 12 marlas. Taking into consideration the oral and documentary evidence available on record, it can be safely held that the deceased had been cultivating land. Taking a clue from the minimum wage of an unskilled worker at the relevant time coupled with loss of managing capacity of the deceased to look after land owned by him, interest of justice commands that loss of income qua agricultural land is assessed at Rs.3000/- per month. In this manner, total income of the deceased is calculated at Rs.6000/- per month.

As the application for compensation was filed by five persons and even if father of the deceased is ignored from consideration qua loss of dependency, admissible deduction for personal expenses would be 1/4th. Multiplier adopted by the Tribunal is affirmed. Claimants shall be entitled to benefit of future prospects @ 40%. In this manner, loss of dependency comes to Rs.12,09,600/- (Rs.6000 x 12 x 16) + (40% future prospects) – (1/4th 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.12,79,600/- and the additional amount is Rs.8,85,600/- (12,79,600 – 3,94,000), payable with interest @7.5% per annum from the date of petition till realization to widow of the deceased, to be invested in fixed deposit for a period of three years.

The appeal is partly allowed in the aforesaid terms.

30.04.2018 **(REKHA MITTAL)**
ashok **JUDGE**

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