IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 23.02.2018

FAO 6805 of 2010 (O&M)

Ranjit Kaur and others .... *Appellants*

Versus

Jatinder Singh and others ....*Respondents*

FAO 6827 of 2010 (O&M)

Balbir Kaur ....*Appellant*

Versus

Jatinder Singh and others ....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Suveer Sheokand, Advocate
for the appellants

Mr. D P Gupta, Advocate and
Mr. Rohit Goswami, Advocate
for the insurance company

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Rekha Mittal, J.

CM 29367 of 2010

Prayer in this application is for condonation of delay of 6 days in filing the appeal.

In view of averments made in the application supported by an affidavit of one of the appellants and arguments advanced, the application is allowed and delay of 6 days in filing the appeal stands condoned.

Main case

This order will dispose of FAO 6805 and 6827 of 2010 as these have emerged out of the same accident that took place on 04.02.2009 due to rash and negligent driving of Scorpio Car No. CH-04-C 6476.

FAO 6805 of 2010

The Tribunal has awarded compensation, with regard to death of Kirti Singh, of Rs.3,93,500.00 (rounded off to Rs.3,94,000.00), detailed hereunder:-

Monthly income of the deceased	Rs.3,000.00
Deduction for personal expenses	1/3rd
Multiplier	16
Loss of dependency	Rs.3,84,000.00
General damages	Rs.9,500.00
Total	Rs.3,93,500.00

Counsel for the appellants would argue that income of the deceased assessed by the Tribunal is on lower side and needs enhancement on the basis of minimum wage of a semi skilled worker as deceased was a Welding Mechanic, so held by the Tribunal in para 15 of the award. The claimants are entitled to increase in income for future prospects to the extent of 40%. Adequate compensation under conventional heads may be allowed. The Tribunal has wrongly applied deduction for personal expenses to the extent of 1/3rd in place of 1/4th as application for compensation was filed by the parents and two minor children whereas widow of the deceased has been impleaded on the array of respondents.

Counsel representing the insurance company has supported assessment made by the Tribunal with the plea that adequate compensation has been awarded.

The Tribunal assessed income of the deceased at Rs.3,000.00

per month though accepted plea of the appellants that he was working as a Welding Mechanic based upon document Ex C-1 to C-131. Taking a clue from the notification issued by the State of Punjab fixing minimum wages of various categories of workers and available at the relevant time, income of the deceased is assessed at Rs.3,600.00 per month. Claimants shall be entitled to increase in income for future prospects at the rate of 40% as deceased was 32 years old. The multiplier adopted is affirmed. As has been rightly argued by counsel for the appellants that widow of the deceased would also be entitled to compensation, admissible deduction for personal expenses would be 1/4th in place of 1/3rd. In this manner, loss of dependency comes to Rs.7,25,760.00, detailed hereunder:-

Annual income of the deceased	Rs.43,200.00 (Rs.3,600x12)
Multiplier	16
Loss of dependency	Rs.6,91,200.00 (Rs.43,200x16)
Future prospects 40%	Rs.2,76, 480.00
Deduction for personal expenses 1/4th	Rs.2,41,920.00
Total	Rs.7,25,760.00

Under conventional heads, claimants shall be entitled to Rs.70,000.00, in the light of judgment of Hon'ble the Supreme Court in ***National Insurance Company Limited v. Pranay Sethi and others, 2017 SC 1270***, detailed hereunder:-

Loss of consortium to widow	Rs.40,000.00
Expenses of funeral and last rites	Rs.15,000.00
Loss of estate	Rs.15,000.00

Total compensation comes to Rs.7,95,760.00 (Rs.7,25,760 + Rs.70,000) and additional amount is Rs.4,01,760.00 (Rs.7,95,760.00 - Rs.3,94,000.00) payable with interest at the rate of 7.5% per annum from the date of petition till realization, to be paid to minor children except Rs.40,000.00, to be paid to the widow towards loss of consortium.

The amount falling to share of children shall be deposited in Fixed Deposits in a nationalized Bank till they attain the age of majority or for a period of three years whichever is later. Interest accruing on the Fixed Deposits shall be payable to the grand parents for meeting expenses on their education and living etc.

FAO 6827 of 2010

The Tribunal has awarded compensation of Rs.1,29,500.00 with regard to death of Karamjit Singh, detailed hereunder:-

Monthly income of the deceased	Rs.3,000.00
Multiplier	5
Deduction for personal expenses	1/3rd
Loss of dependency	Rs.1,20,000.00
General damages	Rs.9,500.00

Counsel for the appellant has submitted that income of the deceased assessed by the Tribunal is liable to be enhanced. Claimant is entitled to increase in income for future prospects and adequate compensation under conventional heads. The multiplier needs modification in the light of judgment of Hon'ble the Supreme Court ***Sarla Verma and others v. Delhi Transport Corporation and another 2009(3) R.C.R. (Civil) 77.***

Counsel representing the insurance company would urge that deduction for personal expenses to the extent of 1/3rd is liable to be corrected as 50%.

The occurrence in question took place on 04.02.2009. Taking a clue from the notification issued by the State of Punjab fixing minimum wages for various categories of workers, income of the deceased is assessed at Rs.3,300/- per month. As claimant is mother of the deceased, deduction for personal expenses would be 50%. The Tribunal has wrongly applied multiplier of 5 on the basis of age of the claimant in place of appropriate multiplier in view of age of the deceased. The deceased was 30 years, therefore, admissible multiplier would be 17 in the light of judgments in Sarla Verma's case (supra), ***Munna Lal Jain and another Vs. Vipin Kumar Sharma and others, (2015) 6 SCC 347*** and ***Pranay Sethi's*** case (supra). Claimant shall be entitled to increase in income for future prospects to the extent of 40%. In this manner, loss of dependency comes to Rs.4,71,240.00, detailed hereunder:-

Annual income of the deceased	Rs.39,600.00 (Rs.3,300x12)
Multiplier	17
Loss of dependency	Rs.6,73,200.00 (39,600x17)
Future prospects 40%	Rs.2,69,280.00
Deduction for personal expenses 50%	Rs.4,71,240.00
Total	Rs.4,71,240.00

Under conventional heads, claimants shall be entitled to Rs.30,000.00, in the light of judgment of Hon'ble the Supreme Court in ***Pranay Sethi's case (supra)***, detailed hereunder:-

Expenses of funeral and last rites	Rs.15,000.00
Loss of estate	Rs.15,000.00

Total compensation comes to Rs.5,01,240.00 (Rs.4,71,240.00 + Rs.30,000.00) and additional amount is Rs.3,71,740.00 (Rs.5,01,240.00-Rs.1,29,500.00), payable to the claimant with interest at the rate of 7.5% per annum from the date of petition till realization.

Appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

23.02.2018
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No

Under conventional heads, claimants shall be entitled to Rs.70,000.00, in the light of judgment of Hon'ble the Supreme Court ***National Insurance Company Limited v. Pranay Sethi and others, 2017 SC 1270***, detailed hereunder:-

Loss of consortium to widow	Rs.40,000.00
Expenses of funeral and last rites	Rs.15,000.00
Loss of estate	Rs.15,000.00