IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 2629 of 2013 (O&M)
Date of decision: 11.05.2018

Santosh Devi and others .... *Appellants*

Versus

Baljit Singh and others ....*Respondents*

Coram: **Hon'ble Mrs. Justice Rekha Mittal**

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Present: Mr. Vikram Bali, Advocate
for the appellants

Mr. HPS Bhinder, Advocate
for respondent No. 1

Mr. Vishal Kashyap, AAG, Haryana
for the State

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Rekha Mittal, J. (Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Dharamvir in a motor vehicular accident that took place on 09.03.2010.

The Tribunal has awarded compensation of Rs.14,27,448.00, detailed in paras 26 and 27 of the award.

Counsel for the claimants would urge that compensation needs to be re-assessed in the light of the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 (in short, Rules 2006) by first assessing loss of dependency, compensation payable under conventional heads and thereafter deduction to the extent of 50% of compassionate assistance available to family of the deceased in the light of judgment of Hon'ble the Supreme Court ***Reliance General Insurance Co. Ltd. v. Shashi Sharma***, ***(2016) 9 SCC 627.*** It is further argued that the Tribunal has wrongly applied split multiplier of 13 and allowed benefit of increase in income for future prospects at the rate of 30% as against 50% admissible in the light of judgments of Hon'ble the Supreme Court ***Sarla Verma and others v. Delhi Transport Corporation and another 2009(3) R.C.R. (Civil) 77*** and ***National Insurance Company Limited v. Pranay Sethi and others, 2017 SC 1270.***

The claimants examined EHC Shiv Kumar (PW2), Assistant CRC in the office of Superintendent of Police, Panchkula to prove employment and income of the deceased. As per his statement, gross salary of deceased was Rs.16,230.00 per month. The entire salary drawn by the deceased is to be taken into consideration for computing loss of dependency. In this context, reference can be made to judgments of Hon'ble the Supreme Court ***National Insurance Company Limited vs. Indira Srivastava and others 2008(1)RCR (Civil) 359*** and ***Manasvi Jain vs. Delhi Transport Corporation 2014 (3) RCR (Civil) 313.***

The deceased was in the age bracket of 37-38 years, therefore, admissible multiplier is 15. The split multiplier applied cannot be sustained in view of judgment of Hon'ble the Supreme Court ***Puttamma and others v. K.L. Narayana Reddy and another (2013) 15 SCC 45.*** The claimants shall be entitled to benefit of addition in income for future prospects at the rate of 50% as the deceased was a Government employee aged less than 40 years. Deduction for personal expenses would be 1/3rd. In this manner, loss of dependency comes to **Rs.29,21,400.00** (Rs.29,21,400.00 *i.e.* Rs.16,230.00 x 12 x 15 + Rs.14,60,700.00 (50% future prospects) –

Rs.14,60,700.00 (1/3rd deduction)).

Under conventional heads, claimants shall be entitled to Rs.70,000.00, in the light of judgment of Hon'ble the Supreme Court in ***Pranay Sethi's*** case (supra), 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

EHC Shiv Kumar in his cross examination has stated that family of the deceased would get salary including DA till the date of retirement of the deceased as per Government instructions. However, Shri Sukhpal Singh, Assistant Accountant in the office of Superintendent of Police, Panchkula (PW5) has deposed that family of the deceased will get last pay drawn till 11.03.2022 amounting to Rs.26,18,371.00. Statement of Sukhpal Singh is in consonance with the provisions of Rule 5 of the Rules, 2006 which says that on the death of any Government employee, family of the employee would continue to receive financial assistance equal to the pay and other allowances that was last drawn by the deceased employee in the normal course without raising a specific claim for a period of twelve years or till the date the employee would have retired from Government service on attaining the age of superannuation, whichever is less, if the employee at the time of his death had attained the age of thirty-five years but had not attained the age of forty-eight years.

As in the instant case, date of superannuation is beyond the period of 12 years, compassionate assistance would be available only for a period of 12 years *i.e* till 11.03.2022. Indisputably, job of the deceased was pensionable. Had the Rules of 2006 been not in existence, the family would have been entitled to pension at the rate of 50% of the last pay drawn, therefore, 50% amount available towards compassionate assistance is amenable to deduction out of compensation assessed by this Court. In this context, reference can be made to judgment of this Court ***New India Assurance Company Limited vs. Ajmero and others*** (FAO 2648 of 2016, decided on 31.07.2017).

Total compensation comes to Rs.29,91,400.00 (Rs.29,21,400.00 + Rs.70,000.00). After deducting financial assistance, compensation payable to the claimants comes to Rs.16,82,214.50 (Rs.29,91,400.00 – Rs.13,09,185.50). The additional amount is **Rs.2,54,766.50** (Rs.16,82,214.50 – Rs.14,27,448.00) payable with interest at the rate of 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. All other terms and conditions of the award shall remain intact.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

11.05.2018
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No