IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1810-2014 (O&M)
Date of decision: 09.01.2018

MANJIT KAUR & ORS ...Appellants

Versus

SINOD KUMAR & ORS ...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : None for the appellants.

Mr. Arun Sharma, Advocate
for the insurance company.

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REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation in regard to death of Nirbhai Singh in a motor vehicular accident that took place on 10.03.2012.

The Tribunal has awarded compensation to the tune of Rs.9,46,200/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.6000/-
2. Multiplier	13
3. Deduction for personal expenses	1/3rd
4. Increase in income for future prospects	30%
5. Loss of dependency	Rs.8,11,200/-
6. Expenses on funeral	Rs.25,000/-
7. Loss of love and affection	Rs.10,000/-
8. Loss of consortium	Rs.1,00,000/-

The Tribunal has assessed income of the deceased by taking into consideration loss of his supervisory skills involved in various activities undertaken by the deceased. Perusal of the records would reveal that claimants placed on record income tax returns Ex.P5 to P7 but the Tribunal did not rely upon the income tax returns for assessing loss of dependency. Counsel for the insurance company has submitted that widow of the deceased appeared in the witness box and admitted in her cross-examination that land has been given on lease, therefore, income of the deceased shown in the income tax returns cannot form the basis for computing loss of dependency.

The latest income tax return filed by the deceased was on 10.01.2012 Ex.P5. Gross income of the deceased is Rs.1,52,000/-. In the computation, income from contract/job work is Rs.1,30,000/- whereas the remaining income of Rs.22,000/- is miscellaneous income (interest). Similarly, in the earlier returns Ex.P6 and P7, income from job work is Rs.1,10,700/- and Rs.1,08,500/-, respectively. In view of income shown in the income tax returns filed by the deceased, it is difficult to affirm the findings of the Tribunal assessing income of the deceased @ Rs.6000/- per month. By taking into consideration income of the deceased from job work reflected in the latest income tax return Ex.P5 for the assessment year 2010-11, income of the deceased is taken at Rs.1,30,000/- per annum.

In one of the income tax returns, date of birth of the deceased is mentioned i.e. 26.06.1963 thus, the deceased was in the age bracket of 46 to 50. The Tribunal has rightly applied multiplier of 13 for computing loss of dependency. However, in view of latest judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270,** claimants shall be entitled to increase in income for future prospects to the extent of 25% as against 30% allowed by the Tribunal.

The Tribunal has allowed deduction for personal expenses to the extent of 1/3rd. The deceased left behind his widow, two adult children and widowed mother. Mother of the deceased died during pendency of proceedings before the Tribunal. There is nothing on record suggestive of the fact that children of the deceased namely Harvinder Kaur and Rupinder Singh had any source of income or were not dependent upon income of the deceased. As the deceased left behind four legal representatives who were dependent upon his income, admissible deduction would be 1/4th in place of 1/3rd. In this manner, loss of dependency comes to Rs.15,84,375/- (Rs.1,30,000 x 13) + (25% future prospects) – (1/4th deduction for personal expenses).

Compensation awarded by the Tribunal under conventional heads is more than what is admissible in the light of latest judgment of Hon'ble the Supreme Court **Pranay Sethi's case** (supra). Claimants shall be entitled to Rs.70,000/- under conventional heads, detailed hereunder:-

1. Loss of consortium	Rs.40,000/-
2. Funeral expenses	Rs.15,000/-

3. Loss of estate Rs.15,000/-

The total compensation comes to Rs.16,54,375/- and the additional amount is Rs.7,08,175/- (16,54,375 – 9,46,200), payable with interest @ 7.5% per annum from the date of petition till realization to widow of the deceased, to be invested in FDR for a period of three years.

The appeal is partly allowed in the aforesaid terms.

09.01.2018 **(REKHA MITTAL)**
ashok **JUDGE**

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