IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 3505 of 2013 (O&M)
Date of decision: 16.01.2018

Puja Ranjan and others ....*Appellants*

Versus

Usha Rani and others ....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. A S Sandhu, Advocate
for the appellants

Mr. M S Yadav, Advocate for
Mr. Sherry K Singla, Advocate
for respondents No. 1 and 3

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Rekha Mittal, J. (O&M)

The claimants are in appeal seeking enhancement of compensation on account of death of Dhananjay Kumar in a motor vehicular accident that took place on 16.08.2011.

The Tribunal has awarded compensation to the tune of Rs.26,91,240.00, detailed hereunder:-

Monthly income of the deceased	Rs.33,157.60
Deduction for personal expenses	1/4th
Deduction qua pension received by family	Rs.10,000.00
Loss of dependency	Rs.14,868x15x12= 26,76,240.00
Loss of estate	Rs.5,000
Transportation and funeral expenses	Rs.5,000.00
Loss of consortium	Rs.5,000.00

Counsel for the claimants has submitted that the deceased was posted as Deputy Manager in the State Bank of Patiala and drawing monthly salary of Rs.33,157.00 as per pay slip for the month of July 2011 Ex C5. It is argued that the Tribunal has wrongly deducted Rs.10,000.00 paid to the family of the deceased towards pension as pensionary benefit are not amenable to deduction for computing loss of dependency. Another submission made by counsel is that the claimants are entitled to benefit of increase in income for future prospects to the extent of 50% as the deceased was born on 01.07.1974 and less than 40 years of age on the date of accident i.e. 16.08.2011. Adequate compensation may be awarded under conventional heads.

Counsel representing respondent No. 1 and 3 has supported assessment made by the Tribunal.

There is no representation on behalf of the insurance company, earlier being represented by a counsel.

The Tribunal in para 26 of the award has noticed that the deceased was earning Rs.33,157.60 as depicted in the salary slip Ex.C5. The Tribunal has seriously erred by deducting an amount of Rs.10,000.00 qua pension paid to family of deceased as pensionary benefits are not amenable to deduction for computing loss of dependency. The annual income of the deceased comes to Rs.3,97,891.00. After deducting income tax i.e. Rs.22,443.00, annual income for computing loss of dependency is Rs.3,75,448.00. The Tribunal has rightly applied multiplier of 15 and deduction of 1/4th for personal expenses. However, the claimants shall be entitled to increase in income for future prospects at the rate of 50%. In this manner, loss of dependency comes to Rs.63,35,685.00 (Rs.56,31,720 *i.e.*

3,75,448 x 15 + Rs.28,15,860 (50% future prospects) – Rs.21,11,895.00 (1/4th deduction).

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

Total compensation comes to Rs.64,05,685.00 (Rs.63,35,685.00 + Rs.70,000.00) and additional amount is Rs.37,14,445.00 (Rs.64,05,685.00 - Rs.26,91,240.00) payable with interest @ 7.5% per annum from the date of petition till realization to the widow and children of deceased in the ratio 45:25:30. The amount falling to share of children shall be deposited in Fixed Deposits for a period of three years or till they attain the age of majority whichever is later. However, the interest on FDRs shall be payable to the mother for meeting their expenses.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

16.01.2018.
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No