IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 23.04.2018

FAO No.4261 of 2013 (O&M)

Mohit and others ... Appellants

Versus

Balbir Singh and others ... Respondents

FAO No.4262 of 2013 (O&M)

Mohit and another ... Appellants

Versus

Balbir Singh and others ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Pankaj Mehta, Advocate
for the appellants.

Mr. Banni Thomas, Advocate
for Oriental Insurance Co. Ltd.

Mr. Vinod Gupta, Advocate
for New India Assurance Co. Ltd.

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REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.4261 and 4262 of 2013 as these have emerged out of the same award dated 06.03.2013 passed by the Motor Accidents Claims Tribunal, Hisar whereby compensation has been awarded on account of death of Kamlesh Grover and Asha Nand in a motor vehicular accident that took place on 23.11.2009.

FAO No.4261 of 2013

With regard to death of Kamlesh Grover, the Tribunal has computed compensation of Rs.7,35,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.6903/-
2. Multiplier	13
3. Deduction for personal expenses	1/3rd
4. Loss of dependency	Rs.7,15,000/-
5. Funeral expenses	Rs.20,000/-

As legal heirs of Kamlesh Grover are entitled to full pension of Rs.6903/- till 22.11.2016, an amount of Rs.5,79,852/- has been deducted out of compensation assessed by the Tribunal and accordingly, the claimants have been held entitled to sum of Rs.1,55,148/-.

Counsel for the claimants would urge that the deceased was 50 years of age at the time of death. The application for compensation has been filed by sons of the deceased and one of the sons Vinit Grover was minor at the time of occurrence. It is argued that claimants are entitled to compensation for loss of services of the deceased by adopting appropriate multiplier. Adequate compensation may be allowed under conventional heads.

Counsel representing the respondents have supported assessment made by the Tribunal.

The Tribunal has assessed loss of dependency only in respect of pension @ Rs.6903/- per month, being received by the deceased. The Tribunal has failed to take into account services rendered by the deceased to her family including her sons who have filed the application for compensation. Taking a clue from the minimum wage available to an unskilled worker coupled with multifarious duties to be performed by a house-maker, interest of justice would be served if value of services of the deceased is assessed at Rs.6000/- per month. No deduction for personal expenses is to be made in the light of Division Bench judgment of this Court **Paramjit Singh and another Vs. Dilbagh Singh @ Bagga and others, 2013(3) Law Herald 2730.** After applying multiplier of 13, loss of dependency is calculated at Rs.9,36,000/- (Rs.6000 x 12 x 13).

Under conventional heads, claimants shall be entitled to Rs.30,000/-, namely Rs.15,000/- for funeral expenses and Rs.15,000/- for loss of estate.

The Tribunal has awarded compensation of Rs.1,55,148/-. Total compensation is Rs.11,21,148/- and the additional amount is Rs.9,46,000/-, payable with interest @7.5% per annum from the date of petition till realization, to be shared by the claimants in the ratio 40:60.

The appeal is partly allowed in the aforesaid terms.

FAO No.4262 of 2013

The Tribunal has awarded compensation of Rs.9,00,000/- with regard to death of Asha Nand Grover, detailed hereunder:-

1. Monthly income of the deceased	Rs.10,000/-
2. Multiplier	11
3. Deduction for personal expenses	$1/3^{rd}$
4. Loss of dependency	Rs.8,80,000/-
5. Funeral expenses	Rs.20,000/-

Counsel for the appellants would urge that the deceased was a property dealer at Hisar. Claimants have proved income tax returns filed by the deceased. Claimants are entitled to increase in income for future prospects @ 10%. Adequate compensation may be allowed under conventional heads.

Counsel for the insurance company, on the contrary, has supported assessment made by the Tribunal.

Counsel for the parties were directed to go through the testimony of witness examined to prove income tax returns and the documents marked as exhibits in his statement. After going through the documents, counsel for the parties have arrived at a consensus that income of the deceased assessed by the Tribunal may be affirmed and ordered accordingly. Claimants shall be entitled to benefit of future prospects @10%. Multiplier and deduction for personal expenses allowed by the Tribunal are affirmed. In this manner, loss of dependency comes to Rs.9,68,000/- (Rs.10,000 x 12 x 11) + (10% future prospects) – (1/3rd deduction for personal expenses).

Under conventional heads, claimants shall be entitled to Rs.30,000/- i.e. Rs.15,000/- for expenses on funeral and Rs.15,000/- for loss to estate.

Total compensation is Rs.9,98,000/- and the additional amount is Rs.98,000/- (9,98,000 – 9,00,000), payable with interest @ 7.5% per annum from the date of petition till realization, to be shared by the claimants equally.

The appeal is partly allowed in the aforesaid terms.

As the deceased in both the appeals have not been attributed any negligence, the claimants shall be at liberty to recover compensation from either of the joint tortfeasers, in terms of award passed by the Tribunal.

23.04.2018 **(REKHA MITTAL)**
ashok **JUDGE**

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