IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 14.02.2018

FAO No.3949 of 2014 (O&M)

Harjit Kaur and others ... Appellants

Versus

Satnam Singh and others ... Respondents

FAO No.3950 of 2014 (O&M)

Gulwant Singh and others ... Appellants

Versus

Satnam Singh and others ... Respondents

FAO No.3951 of 2014 (O&M)

Jaspreet Kaur ... Appellant

Versus

Satnam Singh and others ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : None for the claimants.

Mr. Navin Kapur, Advocate
for the insurance company.

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REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.3949 to 3951 of 2014 as these have emerged out of the same accident that took place on 21.04.2008.

FAO No.3949 of 2014

CM No.11983-CII of 2014

Heard.

Allowed as prayed for. Delay of 36 days in filing the appeal stands condoned.

Main Case

With regard to death of Jagmohan Singh, the Tribunal has awarded compensation to the tune of Rs.12,73,598/-, detailed hereunder:-

1. Annual income of the deceased	Rs.1,39,224/-
2. Multiplier	11
3. Deduction for personal expenses	1/4th
4. Loss of dependency	Rs.11,48,598/-
5. Expenses on funeral	Rs.25,000/-
6. Loss of consortium, love and affection	Rs.1,00,000/-

Counsel representing the insurance company has supported assessment made by the Tribunal with the submission that adequate compensation has been awarded. It is argued that compensation awarded under conventional heads needs to be restricted to Rs.70,000/- in the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270.**

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

Perusal of the award particularly findings on issue No.2 makes it evident that deceased was working as Senior Assistant in Bank of Maharashtra and his gross salary was Rs.25,842.64. The Tribunal has seriously erred by computing loss of dependency on the basis of carry home salary of Rs.11,602/- per month. Liability to pay income tax would be deducted for computing loss of dependency. After deducting income tax of Rs.29,034/-, annual income of the deceased for calculating loss of dependency is Rs.2,81,082/-. As the deceased was 52 years old having been born on 15.11.1955, claimants shall be entitled to increase in income for future prospects @ 15%. The multiplier and deduction for personal expenses applied by the Tribunal are affirmed. In this manner, loss of dependency comes to Rs.26,66,765/- (Rs.2,81,082 x 11) + (15% future prospects) – (1/4th deduction for personal expenses).

Compensation awarded by the Tribunal under conventional heads is modified to the effect that claimants shall be entitled to Rs.70,000/-, detailed hereunder:-

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

Total compensation is Rs.27,36,765/- and the additional amount is Rs.14,63,167/- (27,36,765 – 12,73,598), payable with interest @7.5% per annum from the date of petition till realization to widow and minor son of the deceased in equal proportion. The share of minor child shall be deposited in fixed deposit payable on his attaining age of majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

FAO No.3950 of 2014

With regard to death of Rajwant Singh aged 76 years, the Tribunal has awarded Rs.1,88,109/-, detailed hereunder:-

1. Expenses on medical treatment	Rs.63,109/-
2. Funeral expenses	Rs.25,000/-
3. Loss of love and affection	Rs.1,00,000/-

As per plea of the claimants, deceased was working as Assistant Manager with M/s Aman Trading Company. The claimants examined Pritpal PW6 to prove avocation and income of the deceased while working with the aforesaid firm. However, Pritpal PW6 did not appear in the Court for his cross-examination, therefore, his testimony has not been taken into account for assessing compensation and rightly so.

The Tribunal, on a detailed consideration of the materials on record has recorded that none of the claimants was actually dependent upon income of the deceased as all the claimants are well settled in their life and have their families to look after. Under the circumstances, sons and daughters of the deceased become entitled to compensation qua loss of estate.

The deceased was 76 years old, claimants have failed to prove that he was gainfully employed. Under the circumstances, an amount of Rs.1,00,000/- awarded by the Tribunal on account of loss of love and affection shall be appropriated towards loss of estate.

The wife of the deceased was alive and arrayed as one of the claimants but her name was deleted vide order dated 11.01.2013. Under the circumstances, claimants shall be entitled to an amount of Rs.55,000/- under conventional heads i.e. Rs.40,000/- for loss of consortium and Rs.15,000/- for funeral expenses. The amount of Rs.63,109/- for medical expenses allowed by the Tribunal is affirmed. In this manner, total compensation is Rs.2,18,109/- and the additional amount is Rs.30,000/- (2,18,109 – 1,88,109), payable with interest @ 7.5% per annum from the date of petition till realization, in terms of the award passed by the Tribunal.

The appeal is partly allowed in the aforesaid terms.

FAO No.3951 of 2014

With regard to injuries sustained by Jaspreet Kaur, Tribunal has awarded Rs.7500/-.

I have gone through the award but find no justification for enhancement of compensation.

Accordingly, the appeal fails and is dismissed.

No order as to costs.

14.02.2018 **(REKHA MITTAL)**
ashok **JUDGE**

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