IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-4173-2014 (O&M)
Date of decision: 14.05.2018

RAJWANTI AND ANR ... Appellants

Versus

SHAMSHER AND ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Sudesh Sahi, Advocate for
Mr. R.D. Gupta, Advocate for the appellants.

Ms. Anamika Mehra, Advocate for the insurance company.

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REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Karambir @ Sonu in a motor vehicular accident that took place on 04.07.2012.

The Tribunal has awarded compensation of Rs.5,03,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.6000/-
2. Multiplier	13
3. Deduction for personal expenses	50%
4. Loss of dependency	Rs.4,68,000/-
5. Expenses on funeral	Rs.10,000/-
6. Loss of estate	Rs.5000/-
7. Loss of love and affection	Rs.20,000/-

As per plea of the claimants, the deceased was engaged in agriculture and dairy farming besides running his own tractor, laser leveling machine, dumper and reaper in the name and style of Debas Agriculture thereby earning Rs.45,000/- per month. The claimants placed on record jamabandi for the year 2011-12 Ex.P6, Forms J Mark A and B in the name of deceased showing sale of wheat on 15.04.2010 and 23.04.2010 for Rs.67,925/- and Rs.12,320/-, respectively. The claimants also produced registration certificate of tractor owned by the deceased Ex.P3, driving licence Ex.P4 and cash credit memo Mark C whereby wheat straw thresher reaper machine was purchased for Rs.1,65,000/-. The Tribunal in para 18 of the award has taken note of documentary evidence on record but refused to assess income of the deceased on the basis of these documents by saying that claimants have not produced any document as a proof of income or any documents maintained by the deceased for running his tractor or reaper.

Perusal of jamabandi for the year 2011-12 would reveal that land is in the name of Smt. Rajwanti, mother of the deceased. The father of the deceased namely Inder Singh is alive. The deceased must be helping the family in agriculture operations and for that reason Forms J Mark A and B qua sale of wheat in April, 2010 have been issued in the name of deceased. There are documents on record that deceased owned tractor and wheat straw reaper. As the deceased was involved in agricultural operations, it is difficult to expect from the claimants to produce any document qua his exact income. However, the claimants did not examine a witness to prove that the tractor and wheat straw reaper owned by the deceased was used for harvesting crop of other land owners. Taking a cumulative view of the facts and circumstances on record coupled with the minimum wage available at the relevant time, interest of justice would be served if income of the deceased is assessed at Rs.7500/- per month. Claimants shall be entitled to addition for future prospects @ 40%. Deduction for personal expenses allowed by the Tribunal is affirmed. However, admissible multiplier would be 18 as the deceased was less than 25 years of age. In this context, reference can be made to judgments of Hon'ble the Supreme Court **Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77, Munna Lal Jain and anr. vs. Vipin Kumar Sharma and ors., 2015 (3) SCC (Civil) 315** and **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**. In view of the above, loss of dependency comes to Rs.11,34,000/- (Rs.7500 x 12 x 18) + (40% future prospects) – (50% deduction for personal expenses).

Under conventional heads, compensation awarded by the Tribunal is modified to the effect that claimants shall be entitled to Rs.30,000/-, i.e. Rs.15,000/- for funeral expenses and Rs.15,000/- for loss to estate.

Total compensation is Rs.11,64,000/- and the additional amount is Rs.6,61,000/- (11,64,000 - 5,03,000), payable with interest @7.5% per annum from the date of petition till realization, to mother of the deceased.

The appeal is partly allowed in the aforesaid terms.

14.05.2018 **(REKHA MITTAL)**
ashok **JUDGE**

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