IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

-.-

FAO 4384 of 2014 (O&M)
Date of decision: 12.01.2018

Rajesh Devi and others .... *Appellants*

Versus

Sandeep Kumar and another ....*Respondents*

Coram: **Hon'ble Mrs. Justice Rekha Mittal**

-.-

Present: Ms Madhulika Siwal, Advocate for
Mr. S N Yadav, Advocate
for the appellants

Mr. Rajbir Singh, Advocate
for the insurance company

-.-

Rekha Mittal, J. (Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Nathu Ram in a motor vehicular accident that took place on 02.02.2012.

The Tribunal has assessed compensation of Rs.17,87,192.00, detailed hereunder:-

Monthly income of the deceased (net salary)	*Rs.16,847.00*
Deduction for personal expenses	$1/3^{rd}$
Multiplier	13
Annual loss of dependency	Rs.1,34,784 x13 = Rs.17,52,192.00
Funeral expenses	Rs.5,000.00
Loss of estate	Rs.5,000.00
Loss of love and affection and consortium	Rs.25,000.00

Counsel for the appellants has submitted that gross salary of the deceased who was working as a Manager with Rewari Central Cooperative Bank Limited was Rs.39,275.00 but the Tribunal has wrongly taken into account net salary of the deceased for computing loss of dependency. Another submission made by counsel is that claimants are entitled to increase in income for future prospects to the extent of 30% as the deceased was born on 10.05.1964 and died in February 2012, therefore, he was less than 50 years of age. Adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company has not disputed contentions of the appellants justifying enhancement of compensation. However, it is argued that benefit available to family of the deceased under the Haryana Compassionate Assistance to the Dependents of the Deceased Government Employees Rules 2006 (in short, Rules of 2006) is liable to be deducted out of compensation assessed, in the light of judgment of Hon'ble the Supreme Court ***Reliance General Insurance Co. Ltd. v. Shashi Sharma, (2016) 9 SCC 627*** .

Perusal of salary statement Ex.P2 leaves no manner of doubt that gross salary of the deceased was Rs.39,275.00. The Tribunal without assigning any reason has only given benefit of net salary of Rs.16,847.00 per month for computing loss of dependency. This finding of the Tribunal is contrary to spirit of the legislative intent as well as catena of judgments on the issue that the Tribunal has an obligation to assess just and reasonable compensation. The annual salary of deceased is Rs.4,71,300.00. After deducting income tax of Rs.30,004.00, salary available for computing loss of dependency is Rs.4,41,296.00.

The Tribunal has rightly applied deduction to the extent of 1/3rd and multiplier of 13 for computing loss of dependency. However, claimants shall be entitled to increase in income for future prospects to the extent of 30%. In this manner, loss of dependency comes to **Rs.49,71,935.00** (Rs.57,36,848,00.00 *i.e.* Rs.4,41,296.00 x 13 + Rs.17,21,054.40 (30% future prospects) – Rs.24,85,967.40 (1/3rd 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

The deceased was born on 10.05.1964 and died in February 2012. The family would be entitled to last drawn pay till the age of superannuation i.e. 58 years. The amount for a period of 10 years and three months *i.e.* 123 months comes to **Rs.48,30,825.00**. Hon'ble the Supreme Court in the judgment cited by counsel for the appellant has held that any benefit derived by family of the deceased employee of Haryana Government under the Rules of 2006 shall be deducted from the compensation assessed under the Motor Vehicles Act, 1988. As per counsel, the deceased was employed with the Rewari Central Cooperative Bank Limited and his job is not pensionable. The entire amount of Rs.48,30,825.00, payable as compassionate assistance is to be deducted from compensation assessed. In this manner, claimants shall be entitled to Rs.2,11,110.00 (Rs.49,71,935.00 + Rs.70,000.00) – (Rs.48,30,825.00), thus, compensation is reduced to the extent of Rs.15,76,082.00 (Rs.17,87,192.00 – Rs.2,11,110.00). The insurance company shall be entitled to recover the amount paid in excess by filing an application before the Tribunal.

The appeal is disposed of in the aforesaid terms.

(Rekha Mittal)
Judge

12.01.2018
mohan bimbra

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