250 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 2262 of 2016(O&M)
Date of decision : 27.08.2018

Ranjit Singh and another .... **Appellants**

versus

Ramji Mishra and others .... **Respondents**

CORAM : HON'BLE MRS. JUSTICE REKHA MITTAL

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Present: Mr.Siddharth Gupta, Advocate for the appellants.

Mr.Neeraj Khanna, Advocate
for Mr.Ravinder Arora, Advocate
for respondent No.3.

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REKHA MITTAL , J. (ORAL)

The claimants are in appeal seeking enhancement of compensation on account of death of Balkar Singh in a motor vehicular accident that took place on 02.05.2014.

The Tribunal has assessed compensation of ₹ 50,000/- for loss of estate holding that both the claimants are not dependent upon income of the deceased.

Counsel for the appellant would urge that even if the claimants were not dependent on income of the deceased, they cannot be denied adequate compensation qua loss of estate being the son and daughter of deceased Balkar Singh. It is further submitted that claimants have produced on record Income tax Return for the assessment year 2013-14 wherein gross total income of Balkar Singh is assessed at ₹ 1,86,730/-.

Counsel for the insurance company, on the contrary, has supported compensation awarded by the Tribunal. It is submitted that both the claimants are well settled in life, therefore, the Tribunal has rightly denied loss of dependency.

I have heard counsel for the parties, perused the paper book and the records.

Be that as it may, even if the claimants are not dependent on income of the deceased, they would be entitled to substantial amount qua loss of estate.

The Income Tax Return for the assessment year 2013-14 shows the total income of deceased to be ₹ 1,86,730/- but the claimants have not produced details of income and source thereof. In the given scenario, Income Tax Return cannot form the basis for computing loss to estate.

The deceased was 55 years old, as per the post mortem report. Taking a clue from the notification issued by the Labour Commissioner, Punjab coupled with age of the deceased, his income is assessed at ₹ 6000/- per month. Claimants shall be entitled to increase in income for future prospects at the rate of 10% .The deduction for personal expenses would be 50% as claimants are to be allowed loss of estate only. Multiplier of 11 is admissible as the deceased was in the age bracket of 51-55 years. In this manner loss of estate is calculated at ₹ 4,35,600/-[₹ 6000 x 12 x 11) + (10% for future prospects)-(50% deduction for personal expenses)]. In addition, claimants would be entitled to a sum of ₹ 15,000/- for expenses of funeral/last rites.

Total compensation is ₹ 4,50,600/- and the additional amount is ₹ 4,00,600/-(₹ 4,50,600- ₹ 50,000/-) payable with interest at the rate of 7.5%

p.a. from the date of petition till realisation, to be shared by the claimants equally.

The appeal is partly allowed in the aforesaid terms.

(REKHA MITTAL)
JUDGE

27.08.2018
sunita

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No