IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

212 FAO-5806-2013 (O&M)

Date of decision: 17.09.2018

NEELAM DEVI & ORS ... Appellants

Versus

SUNIL KUMAR & ANR ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. S.S. Khurana, Advocate for the appellants.

Mr. R.C. Gupta, 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 Ashok Kumar in a motor vehicular accident that took place on 02.06.2012.

The Tribunal has awarded compensation of Rs.7,40,800/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.4900/-
2. Multiplier	16
3. Deduction for personal expenses	$1/4^{th}$
4. Loss of dependency	Rs.7,00,800/-
5. Expenses on transportation/last rites	Rs.10,000/-
6. Loss of estate	Rs.10,000/-
7. Loss of consortium	Rs.10,000/-
8. Loss of love and affection to children	Rs.10,000/-

Counsel for the appellants would urge that in pursuance of order dated 01.06.2016 passed by this Court, the Tribunal has sent a report with regard to additional evidence adduced by the claimants to prove avocation and income of the deceased by examining Ashish Kumar, Deputy Manager, Axis Bank, Bawal Chowk, Rewari PW5, Arjun Kumar, Deputy Manager (HR), Talbros Automotive Components Ltd. Sector 6, Bawal, Distt. Rewari PW6 and Mukesh Kumar, Clerk, PNB Branch Secretariat, Rewari PW7. It is argued that on the basis of additional evidence adduced by the claimants, income of the deceased is liable to be assessed @ Rs.9523.43 per month. Claimants may be allowed benefit of addition in income for future prospects and adequate compensation under conventional heads.

Counsel representing the insurance company has not disputed the factum of recording of statements of witnesses by way of additional evidence. However, it has been argued that claimants have been adequately compensated in terms of award passed by the Tribunal.

I have gone through the statements of witnesses examined by way of additional evidence and documents produced on record in their testimonies.

Perusal of the salary slips, bank statement etc. would reveal that the deceased was drawing salary of Rs.9523.43 since March, 2012. Accordingly, income of the deceased is assessed at Rs.9525/- per month. Claimants shall be entitled to addition in income for future prospects @40%. Deduction for personal expenses and multiplier applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.19,20,240/- [(Rs.9525 x 12 x 16) + (40% future prospects) – (1/4th deduction for personal expenses)].

Under conventional heads, 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.19,90,240/- and the additional amount is Rs.12,49,440/- (19,90,240 - 7,40,800), payable with interest @7.5% per annum from the date of petition till realization, to widow and children of the deceased in the ratio 25:35:40. The amount falling to share of minors shall be invested in fixed deposit payable on their attaining age of majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

17.09.2018 **(REKHA MITTAL)**

ashok **JUDGE**

Whether speaking/reasoned: Yes / No

Whether reportable: Yes / No