IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
-.-

FAO 2634 of 2016 (O&M)
Date of decision: 06.12.2018

Krishna Devi and another ....*Appellants*

versus

Salim and others ....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present : Mr. Mukesh Kumar Yadav, Advocate
for the appellants

Ms Swati Batra, Advocate and
Mr. Ankur Gupta, Advocate
for the insurance company
-.-

Rekha Mittal, J (Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Om Parkash in a motor vehicular accident that took place on 05.05.2014.

The Tribunal has awarded compensation of Rs.7,27,000.00, detailed hereunder:-

Monthly income of the deceased	Rs.9,000.00
deduction for personal expenses	50%
Multiplier	13
Loss of dependency	Rs.7,02,000.00
Funeral expenses	Rs.25,000.00

The Tribunal has assessed income of deceased at Rs.9,000.00 by holding that the respondents have not produced any evidence to rebut evidence produced by the petitioners/claimants. The claimants examined one Hari Parkash (PW3) to prove that the deceased was working at his

Petrol Pump at salary of Rs.9,000.00 per month by working as a salesman. He produced certificate Ex.PW3/B, issued by Yadav Fuel Junction. Hari Parkash, in his cross examination stated that he had not brought any record regarding attendance and salary of the deceased. He also did not produce any document with regard to his ownership of the said Petrol Pump. In the given scenario, testimony of Hari Parkash cannot form the basis to assess income of the deceased at Rs.9,000.00 per month. Taking a clue from the minimum wage available at the relevant time, income of the deceased is assessed at Rs.5,600.00 per month. Claimants shall be entitle to increase in income for future prospects at the rate of 40%. Deduction for personal expenses allowed by the Tribunal is correct and affirmed. As the deceased was 25 years old, admissible multiplier is 18. In this context, reference can be made to judgments of Hon'ble the Supreme Court in ***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 v. Pranay Sethi and others, 2017 SC 1270.*** In this view of the matter, loss of dependency is calculated at Rs.8,46,720.00 (Rs.12,09,600.00 *i.e.* 5,600 x 12 x 18 + Rs.4,83,840.00 (40% addition) – Rs.8,46,720.00 (50% deduction))

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs.1,10,000.00, detailed hereunder:-

Loss of consortium to parents	Rs.80,000.00(Rs.40,000/-each)
Funeral expenses	Rs.15,000.00
Loss to estate	Rs.15,000.00

Total compensation comes to Rs.9,56,720.00 and additional amount is Rs.2,29,720.00 (Rs.9,56,720.00 – Rs.7,27,000.00) along with interest at the rate of 7.5% per annum from the date of petition till realization payable to mother of the deceased, to be invested in Fixed deposit for a period of two years.

In view of the above, the appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

06.12.2018.
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