IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-5304-2014 (O&M)
Date of decision: 30.01.2018

ROSHNI DEVI AND ORS ...Appellants

Versus

DALBIR SINGH AND ORS ...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Amit Singla, Advocate
for the appellants.

Mr. S.S. Sidhu, Advocate
for respondent No.3.

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<u>REKHA MITTAL, J. (Oral)</u>

The claimants are in appeal seeking enhancement of compensation on account of death of Rajender Kumar in a motor vehicular accident that took place on 02.09.2012.

The Tribunal has awarded compensation to the tune of Rs.5,44,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.4000/-
2. Multiplier	14
3. Deduction for personal expenses	1/4th
4. Loss of dependency	Rs.5,04,000/-
5. Expenses on funeral	Rs.20,000/-
6. Loss of consortium	Rs.20,000/-

Counsel for the appellants has submitted that income of the deceased assessed by the Tribunal is on lower side and needs enhancement. Claimants are entitled to benefit of increase in income for future prospects. Adequate compensation may be allowed under conventional heads. In addition, it is argued that as the deceased was 40 years old, appropriate multiplier should be 15.

Counsel representing the insurance company, on the other hand, would argue that as per the Voter ID-Card of deceased produced by the claimants, he was 36 years old on 01.01.2006, therefore, he was more than 40 years old at the time of death in September, 2012.

Counsel for the claimants, in reply, has submitted that in the postmortem report, he was recorded to be 40 years old.

The Tribunal has noticed that the claimants did not adduce any cogent evidence to prove income of the deceased-Rajender Kumar. Counsel for the claimants has failed to point out any materials to prove avocation and income of the deceased. However, there is nothing on record suggestive of the fact that deceased was suffering from any disability rendering him unable to earn livelihood for his family consisting of his widow and three minor children. Taking into consideration the minimum wage of an unskilled labour fixed by the State of Haryana and available at the relevant time, income of the deceased is assessed at Rs.5000/- per month.

Counsel for the claimants has not refuted contention of counsel for the insurance company that in the Voter ID-Card, deceased was recorded to be 36 years old as on 01.01.2006. Meaning thereby that he was approximately 42 years old at the time of occurrence. That being so, multiplier of 14 applied by the Tribunal is affirmed. However, claimants shall be entitled to increase in income for future prospects @ 25%. The Tribunal has rightly allowed deduction for personal expenses @ 25%. In this manner, loss of dependency comes to Rs.7,87,500/- (Rs.5000 x 12 x 14) + (25% future prospects) – (1/4th deduction for personal expenses).

Under conventional heads, claimants shall be entitled to Rs.70,000/- in the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**, detailed hereunder:-

1. Loss of consortium	Rs.40,000/-
2. Loss of estate	Rs.15,000/-
3. Funeral expenses	Rs.15,000/-

The total compensation comes to Rs.8,57,500/- and the additional amount is Rs.3,13,500/- (8,57,500 – 5,44,000), payable with interest @ 7.5% per annum from the date of petition till realization in terms of the award passed by the Tribunal.

The appeal is partly allowed in the aforesaid terms.

30.01.2018
ashok

(REKHA MITTAL)
JUDGE

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