IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5688 of 2014
Date of Decision.24.01.2018

Ravi Kanta and another ......Appellants

Vs

Dharam Singh and others ....Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Harsh Aggarwal, Advocate
for the appellants.

Mr. S.S. Sidhu, Advocate
for respondent No.3-insurance company.

Mr. Maninder Singh Dhindsa, Advocate
for respondent Nos.4 to 6.

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AMIT RAWAL J.(ORAL)

The appeal is for enhancement of compensation for death of one Rakesh Kumar aged 52 years, who died in a motor accident occurred on 15.03.2013. The claimants are widow, son, daughter-in-law and two minor grand children. He was partner in Mahadeva Rice Mills and stated to be earning ₹40,000/- per month.

The Tribunal while assessing the compensation took the annual income of the deceased as ₹1,13,200/-, make a deduction of 1/3rd and applied a multiplier of 11 to assess the compensation as ₹9,60,137/- including ₹1 lac for loss of consortium, ₹25,000/- for funeral expenses and ₹5000/- for loss of estate.

Mr. Harsh Aggarwal, learned counsel appearing on behalf of he appellants submitted that as per Ex.P-4, the gross income of the deceased is shown as ₹3,13,113/- and after deducting tax, it comes to ₹2,55,579/-, therefore, the income taken by the Tribunal is on lower side. The Tribunal did not provide any future increase, much less, the deduction ought to have been 1/4th instead of 1/3rd, thus, there is scope for enhancement.

Per contra, Mr. S.S. Sidhu, learned counsel appearing for respondent No.3-insurance company submits that the Tribunal has rightly assessed the income of the deceased as ₹1,13,200/- and since the son was major and daughter-in-law and grand children were not dependent upon the deceased, the Tribunal has rightly made deduction of 1/3rd therefore, there is no scope for enhancement.

I have heard learned counsel for the parties and appraised the paper book. In my view, the Tribunal ought to have taken the income of the deceased as ₹22,000/- per month as is evident from Ex.P4 but I would not interfere with the deduction of 1/3rd. The claimants shall also be entitled for increase in future prospect to the extent of 10% in view of the ratio decidendi culled out by Hon'ble Supreme Court in ***National Insurnace Company Ltd. Vs. Pranay Sethi and others 2017 (13) SCALE 12***. Therefore, I will take the income of the deceased as ₹22,000/- per month, provide an increase of 10% on the same as future prospect, make a deduction of 1/3rd and adopt a multiplier of 11 to assess the loss of dependency as ₹21,29,600/-. I will further add to it ₹40,000/- for loss of consortium and ₹15,000/- each for funeral expenses and loss of estate.

In all, the total compensation payable shall be ₹21,99,600/-. The amount in excess over what has already been provided by the Tribunal shall also attract interest @6% from the date of filing of the appeal till realization. The enhanced amount shall be provided to appellant No.1. The liability shall remain the same as has been determined by the Tribunal.

The award passed by the Tribunal is modified to the above extent and the appeal stands allowed.

(AMIT RAWAL)
JUDGE

January 24, 2018
Vijay Asija/Pankaj*

Whether reasoned/speaking	Yes
Whether reportable	No