IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 712 of 2013
Date of decision : August 13, 2018

Smt. Usha Rani and others
...... Appellants

v.

Chander Bhan and another
...... Respondents

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CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

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Present : Mr. Pankaj Midha, Advocate
for the appellants.

Mr. DR Bansal, Advocate
for respondent No.2.

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Ajay Tewari, J (Oral)

This appeal has been filed by the claimants/appellants for enhancement.

Brief facts are that on 2.12.2011 at about 8 am, the deceased Prem Sagar along with his friend Irman Mohammad Patel was coming back to Jind from Karnal in his car and when they reached one kilometer ahead of village Bahari, Tehsil Assandh, the offending vehicle being driven by respondent No.1 rashly and negligently came on wrong side and struck against the car of the deceased. As a result of this accident, the deceased suffered fatal injuries and died at the spot. Hence, the claim petition was filed.

The Tribunal held respondent No.1 responsible for causing the accident. Monthly income of the deceased was fixed as ₹ 6000/- being the minimum wages of a skilled worker, deduction of 1/3rd was made and after applying multiplier of 12, the compensation assessed was ₹ 5,76,000/-. In addition to this, a sum of ₹ 10,000/- was awarded towards funeral, transportation and consortium.

Counsel for the appellants has argued that the Tribunal has erred in ignoring the income tax returns on completely untenable grounds. ITRs were brought into evidence by the officials of the Income Tax Department. They were all properly signed even by the assessing officer, while contrary finding has been given by the Tribunal.

I find that the ITRs were correct in all respect. As per the last income tax return which was signed by the assessing officer on 29.7.2011, income of the deceased was approximately ₹ 12,000/- per month. Counsel for the Insurance Company is not in a position to deny this. In the circumstances, income of the deceased is taken to be ₹ 11,500/- per month instead of ₹ 6,000/-.

Counsel for the appellants has further argued that as per the decision of the Supreme Court in Sarla Verma and others vs Delhi Transport Corporation and another, AIR 2009 (SC) 3104, multiplier should be 13 instead of 12. Counsel for the Insurance Company is not in a position to deny this also. Consequently, I direct that multiplier of 13 be applied in this case.

Counsel for the appellants has further argued that in view of the judgment of the Supreme Court in National Insurance Company Limited vs Pranay Sethi and others, 2017(4) RCR (Civil) 1009, future prospects of 25% had to be awarded, and that under the conventional heads, a sum of ₹

60,000/- more should be awarded since only a sum of ₹ 10,000/- has been awarded by the Tribunal. Counsel for the Insurance Company accepts this also. Consequently, I award 25% as future prospects and ₹ 60,000/- more under the conventional heads.

Counsel for the Insurance Company, however, points out that the interest of 9% awarded by the Tribunal is too excessive. Counsel for the appellants does not dispute this. Consequently, I direct that the enhanced amount would carry rate of interest 7.5% pa from the date of claim application till the date of payment.

I further find that both the children were major and there is no justification for putting the money in a fixed deposit. I direct that the entire amount awarded by the Tribunal be released to the claimants and the entire enhanced amount be given to appellant No.1.

With this modification in the Award, this appeal stands disposed of.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

(AJAY TEWARI)
JUDGE

August 13, 2018
`kk'

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

KISHAN KUMAR
2018.08.17 14:08
I agree to specified
portions of this document