IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-603-2014 (O&M)
Date of decision: 02.04.2018

AMANDEEP KAUR & ORS ... Appellants

Versus

GURDEEP SINGH & ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ashwani Arora, Advocate for the appellants.

Mr. Nitesh Singhi, Advocate for respondent No.2.

Mr. Sandeep Suri, Advocate for respondent No.3.

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REKHA MITTAL, J. (Oral)

CM No.1766-CII of 2014

Heard.

Allowed as prayed for. Delay of 19 days in refiling the appeal stands condoned.

Main Case

The claimants are in appeal seeking enhancement of compensation on account of death of Dr. Gurpal Singh in a motor vehicular accident that took place on 03.11.2011.

The Tribunal has awarded compensation of Rs.61,40,000/-, detailed hereunder:-

1. Monthly income of the deceased Rs.51,000/-

2. Multiplier	15
3. Deduction for personal expenses	1/3rd
4. Loss of dependency	Rs.61,20,000/-
5. Expenses on funeral	Rs.5000/-
6. Loss of consortium	Rs.10,000/-
7. Loss of love and affection	Rs.5000/-

Counsel for the appellants has pressed for enhancement of compensation primarily on three counts. It is argued that as per the salary certificate Ex.C3, gross salary of the deceased, working as professor in CSE and IT department of Baba Banda Singh Bahadur Engineering College, Fatehgarh Sahib was Rs.91,174/- per month and the entire salary is required to be taken into account for computing loss of dependency. Claimants are entitled to addition in income for future prospects @ 50% as the deceased was in regular job of the aforesaid college since July, 1996 and less than 40 years of age as he was born on 24.02.1973 and died on 03.11.2011. In addition, it is argued that application for compensation was filed by the widow, two minor children and mother of the deceased, therefore, admissible deduction for personal expenses should be 1/4th in place of 1/3rd, in the light of judgment of Hon'ble the Supreme Court **Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77**. Adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company, on the contrary, would argue that liability to pay income tax may be deducted. He has supported findings of the Tribunal with regard to deduction for personal expenses on the premise that widow of the deceased is working as a teacher and drawing salary of more than Rs.40,000/- per month.

The claimants examined Jasvir Singh, Senior Assistant Accounts, Baba Banda Singh Bahadur Engineering College, Fatehgarh Sahib to establish their plea that deceased was working with the aforesaid college since 1996 and his gross salary at the time of death was Rs.91,174/-, reflected in the salary certificate Ex.C3. The witness produced various documents on record. Even the details of deductions are given in the documents Exs.C22 to C24. On due consideration of the documents Exs.C22 to C24, it is evident that entire salary of the deceased is to be taken into account for computing loss of dependency. The annual salary is Rs.10,94,088/-. After deducting income tax (Rs.1,80,226/-) annual income for calculating loss of dependency is Rs.9,13,862/-. The Tribunal has rightly applied multiplier of 15. As the deceased was in regular job and less than 40 years of age, admissible increase for future prospects would be 50% in the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**.

The Tribunal has applied deduction of 1/3rd towards personal expenses of the deceased. Indisputably, application for compensation has been filed by the widow, two minor children and mother of the deceased. There is no denial that Amandeep Kaur, widow of the deceased is working and drawing salary of more than Rs.40,000/-. Even if widow of the deceased is earning hand, she cannot be denied compensation. In the given scenario, deduction for personal expenses would be 1/4th. In this manner, loss of dependency comes to Rs.1,54,21,421/- (Rs.9,13,862 x 15) + (50% 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.1,54,91,421/- and the additional amount is Rs.93,51,421/- **(**1,54,91,421 – 61,40,000), payable with interest @ 7.5% per annum from the date of petition till realization to minor children of the deceased equally, to 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.

02.04.2018 **(REKHA MITTAL)**
ashok **JUDGE**

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