IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

225 FAO-4542-2015 (O&M)

Date of decision: 18.09.2018

KRISHNA AND ANR ... Appellants

Versus

SURESH AND ORS. ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Govind Rana, Advocate for
Mr. Harkesh Manuja, Advocate for the appellants.

Mr. Chiranshu Bansal, Advocate for respondents No.1 and 2.

Mrs. Madhu Sharma, Advocate for the insurance company.

****

REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Sumit Kumar in a motor vehicular accident that took place on 29.03.2013.

The Tribunal has awarded compensation of Rs.8,61,284/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.6430/-
2. Multiplier	11
3. Deduction for personal expenses	1/3rd
4. Loss of dependency	Rs.5,65,884/-
5. Expenses on funeral	Rs.25,000/-
6. Loss of love and affection	Rs.1,00,000/-
7. Medical expenses	Rs.1,70,400/-

Counsel for the claimants would urge that the deceased was a student of MBA, therefore, income of the deceased assessed by the Tribunal is on lower side. Claimants are entitled to addition in income for future prospects and appropriate multiplier on the basis of age of the deceased.

Counsel representing the insurance company, on the contrary, would urge that deduction for personal expenses should be 50% as claimants are the parents of Sumit Kumar, an unmarried person. Compensation allowed under conventional heads needs to be restricted to Rs.30,000 in the light of judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**.

Perusal of the records would reveal that the claimants tendered into evidence documents by way of statement, probably, made by counsel. Two of these documents marked as Exs.P17 and P18 are the certificates dated 28.05.2013 and 03.04.2012. The document Ex.P17 is not on the letter head of any institute. Claimants have not produced any document with regard to deposit of any fee etc. to substantiate their plea that deceased was a student of Master of Business Administration with UEI Global, Rohini, New Delhi. As per the certificate Ex.P18, Sumit Kumar had undergone industrial training at Park Plaza New Delhi Hari Nagar from 03.10.2011 to 03.04.2012. The minimum wage at the relevant time was approximately Rs.5200/5300/- per month. Taking into consideration the minimum wage available at the relevant time coupled with certificate in regard to industrial training, interest of justice would be served, if income of the deceased is assessed at Rs.6000/- per month. Claimants shall be entitled to addition in income for future prospects @ 40%. As the deceased was less than 25 years of age, admissible multiplier is 18. In this context, reference can be made to judgments of Hon'ble the Supreme Court **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 Vs. Pranay Sethi and Ors., 2017 SCC 1270**. However, deduction for personal expenses would be 50% as claimants are parents of unmarried Sumit Kumar. In this manner, loss of dependency is calculated at Rs.9,07,200/- [(Rs.6000 x 12 x 18) + (40% future prospects) – (50% deduction for personal expenses)]. Medical expenses allowed by the Tribunal are affirmed.

Under conventional heads, compensation allowed by the

Tribunal is modified to the effect that claimants shall be entitled to Rs.30,000/-, i.e. Rs.15,000/- for funeral expenses and Rs.15,000/- for loss of estate.

Total compensation is Rs.11,07,600/- and the additional amount is Rs.2,46,316/- (11,07,600 - 8,61,284), payable with interest @7.5% per annum from the date of petition till realization, to mother of the deceased.

The appeal is partly allowed in the aforesaid terms.

18.09.2018 **(REKHA MITTAL)**
ashok **JUDGE**

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