229/2 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 4681 of 2015(O&M)
Date of decision : 31.07.2018

Rekha Devi and another .... Appellants

versus

Subhash Kumar and others .... Respondents

CORAM : HON'BLE MRS. JUSTICE REKHA MITTAL

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Present: None for the appellants.

Mr.Vinay Kumar Rao, Advocate for respondent No.1.

Mr.Jitender Nara, Advocate for respondent No.2.

Rao Ajender Singh, Advocate for respondent No.3.

Mr.M.B.Jain, Advocate for respondent No.4.

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REKHA MITTAL , J. (ORAL)

The claimants are in appeal seeking enhancement of compensation on account of death of Shiv Lal in a motor vehicular accident that took place on 22.05.2013.

The Tribunal has assessed compensation of ₹ 4,84,964/- (rounded off to ₹ 4, 85,000/-), detailed hereunder:-

1. Monthly income of the deceased	₹ 5000/-
2. Deduction for personal expenses	$1/3^{rd}$
3. Multiplier	9
4. Loss of dependency	₹ 3, 59 964/-
5. Loss of consortium	₹ 1, 00,000/-
6. Funeral expenses	₹ 25, 000/-

As per plea of the claimants, deceased was working as a salesman with M/s Yadav Building Material Supplier, Majra besides selling milk thereby earning ₹ 12,000/- per month. They examined Manjeet-PW3 and he produced salary certificate Ex.P2. The Tribunal has noticed that Manjit has not placed any document i.e. attendance register, salary register etc.,therefore, salary certificate Ex.P2 cannot form the basis for assessing income of the deceased at ₹ 9000/- per month. By taking into consideration minimum wage for an unskilled worker, income of Shiv Lal has been assessed at ₹ 5000/- per month. Taking a clue from the notification issued by the State of Haryana fixing minimum wages at the relevant time, income of the deceased is assessed at ₹ 5250/- per month. Deduction for personal expenses allowed by the Tribunal is correct and affirmed. The claimants shall be entitled to benefit of increase in income for future prospects at the rate of 10%. Multiplier of 9 available for the age bracket of 56-60 years has rightly been applied. In this manner loss of dependency is calculated at ₹ 4,15,800/- [(₹ 5250 x 12 x 9) + (10% for future prospects) - (1/3rd deduction for personal expenses)].

Under conventional heads, compensation awarded by the Tribunal is restricted to ₹ 70,000/- in the light of 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/-

Total compensation is ₹ 4,85, 800/- and the additional amount of ₹ 800/-(₹ 4,85, 800/- - ₹ 4,85,000) is payable with interest at the rate of

7.5% p.a. from the date of award till realisation. Compensation would be payable to the claimants by the driver, registered owner and insurer of the offending vehicle. However, the insurance company shall have right of recovery against the insured namely Vinay Kumar and the insured shall have right of recovery against Vinit Kumar to whom the motor cycle had been sold prior to the occurrence.

The appeal is partly allowed in the aforesaid terms.

(REKHA MITTAL)
JUDGE

31.07.2018
sunita

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