In the High Court of Punjab and Haryana at Chandigarh

FAO- 6081 of 2015
Date of Decision:16.4.2018

Nirmala and others

---Appellants

vs.

Sushil Kumar and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Devender Arya, Advocate
for the appellants
Mr. Pardeep Kumar, Advocate
for respondent No. 2

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<u>Rekha Mittal, J.</u>

The claimants are in appeal seeking enhancement of compensation on account of death of Ajay Kumar in a motor vehicular accident that took place on 9.10.2011.

The Motor Accidents Claims Tribunal, Narnaul (in short "the Tribunal") has awarded compensation of Rs. 9,79,440/-, detailed hereunder:-

Monthly income of the deceased	Rs. 4800/-
Deduction for personal expenses	1/10th
Multiplier	16
Loss of dependency	Rs, 8,29,440/-
Expenses on transportation and last rites	Rs. 20,000/-
Loss of love and affection	Rs. 30,000/-
Loss of consortium	Rs. 1,00,000/-

Counsel for the claimants would urge that the Tribunal has not allowed benefit of increase in income for future prospects.

Counsel representing the insurance company would argue that the Tribunal has failed to take into consideration judgment of Hon'ble the Supreme Court with regard to deduction for personal expenses while allowing deduction of 1/10th which is arbitrary and whimsical. In addition, it is argued that compensation allowed under conventional heads needs to be restricted to Rs. 70,000/- in the light of judgment of Hon'ble the Supreme Court **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270**.

The Tribunal has assessed income of the deceased at Rs. 4800/- per month, taking into consideration the minimum wage available at the relevant time. Taking a clue from the notification issued by the State of Haryana fixing minimum wage, income of the deceased assessed by the Tribunal is affirmed. However, in the light of land mark judgment of Hon'ble the Supreme Court **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another 2009 (3)RCR (Civil) 77**, deduction for personal expenses would be 1/4th as application for compensation has been filed by the widow, three minor children and parents of the deceased. Claimants shall be entitled to increase in income for future prospects @ 40% as the deceased was less than 40 years of age. Multiplier adopted by the Tribunal is affirmed. In this manner, loss of dependency comes to Rs. 9,67,680/- [4800 x 12 x 16 = 9,21.600 + 3,68,640 (40%) =12,90,240 -3,22,560 (1/4th)].

Compensation awarded by the Tribunal under conventional heads is modified to the effect that claimants shall be entitled to Rs. 70,000/- , detailed hereunder:-

Loss of consortium to widow	**Rs. 40,000/-**
Expenses on funeral	**Rs. 15,000/-**
Loss of estate	**Rs. 15,000/-**

Total compensation is Rs. 10,37,680/- and the additional amount is

Rs.58,240/- (10,37,680- 9,79,440), payable with interest @ 7.5% per annum from the date of petition till realization to widow of the deceased.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

16.4.2018
paramjit

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