In the High Court of Punjab and Haryana at Chandigarh

Date of Decision: 15.10.2018

FAO No. 797 of 2014

Mamtesh Rani

---Appellant

versus

Rahul alias Chandi and others

---Respondents

FAO No. 886 of 2014

Mamtesh Rani and others

---Appellants

versus

Rahul alias Chandi and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Saurabh Kapoor, Advocate
for Mr. Ashit Malik, Advocate
for the appellants in both the appeals

Mr. Ajit Pal Singh Pakka, Advocate,
for respondents No. 2 and 3 in both the appeals

None for respondent No. 4 in both the appeals

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Rekha Mittal, J.

This order will dispose of FAO Nos. 797 and 886 of 2014 as these have emerged out of the same award dated 10.10.2013 passed by the Motor Accidents Claims Tribunal, Kurukshetra (in short “the Tribunal”) whereby compensation has been assessed on account of death of Sonam aged 4 years and Ishwar Chand, in a motor vehicular accident that took place on 25.8.2012 due to rash and negligent driving of Car No.HR-75-6400 by Rahul alias Chandi on the fateful day.

FAO-797 of 2014

The Tribunal has awarded compensation of Rs. 2,25,000/- , detailed hereunder:-

Notional income of the deceased	Rs. 15,000/-
Multiplier	15
Loss of dependency	Rs. 2,25,000/-

The notional income and multiplier adopted by the Tribunal are correct and affirmed when examined in the light of judgment of this Court **Baljit Singh and another vs. Devi Lal and others FAO No. 391 of 2003 decided on 17.1.2018.** However, claimant shall be entitle to a sum of Rs. 55,000/- under conventional heads, detailed hereunder:-

Loss of consortium Rs. 40,000/-

Expenses on last rites Rs. 15,000/-

The additional amount of Rs. 55,000/- shall be payable with interest @ 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

FAO No. 886 of 2014

With regard to death of Ishwar Chand, the Tribunal has awarded compensation of Rs. 10,89,000/-, detailed hereunder:-

Monthly income of the deceased	Rs. 6000/-
Deduction for personal expenses	$1/4^{th}$
Multiplier	16
Loss of dependency	Rs. 8,64,000/-
Loss of consortium	Rs. 1,00,000/-

Loss of care, love and guidance of children	Rs. 1,00,000/-
Expenses on funeral expenses	Rs. 25,000/-

The plea of the claimants is that the deceased was working in Adarsh Hospital, Shahbad and salary Rs. 12,000/- per month. To substantiate their plea in this regard, they examined Dr. Baldev Singh of Adarsh Hospital. They have also placed on record photocopy of certificate issued by Indian Institute for Health Training in Rural Area regarding completion of 18 months Community Medical Service and Essential Drugs of WHO and Primary Health Care Course from July 2005 to December 2006 but the original document has not been produced. Dr. Baldev Singh did not produce attendance register, salary register nor any other documentary evidence with regard to payment of salary to deceased @ Rs. 12,000/- per month. Counsel for the appellants has expressed his inability to place on record the original certificate of which the photocopy was brought on record. However, the Tribunal has assessed income of the deceased at Rs. 6000/- per month as against minimum wage available for semi skilled/skilled person to the tune of approximately Rs. 5000/- per month. In the circumstances, there is no justification for increase in income of the deceased.

However, the claimants shall be entitle to addition in income for future prospects @ 40%. Deduction for personal expenses allowed by the Tribunal is correct and affirmed. The deceased was born on 9.3.1982 and died on 25.8.2012 and accordingly he was less than 31 years of age. Being in the age bracket of 25-30, admissible multiplier would be 17. In this manner, loss of dependency is calculated at Rs. 12,85,200/- [6000x12x17=12,24,000 +4,89,600(40%)=17,13,600-4,28,400(1/4th)].

Under conventional heads, claimants shall be entitle to Rs. 1,50,000/-, detailed hereunder:-

Loss of consortium to widow and two minor children	Rs.1,20,000/- (Rs. 40,000/- each)
Expenses on last rites	Rs. 15,000/-
Loss of estate	Rs. 15,000/-

Total compensation is Rs.14,35,200/- and the additional amount is Rs. 3,46,200/- (14,35,200-10,89,000), payable with interest @ 7.5% per annum from the date of petition till realization to Sabana and Akshit in equal shares, to be invested in fixed deposit till they attain the age of majority or for a period of three years, whichever is later. The interest accruing on the FDRs shall be paid to their mother for meeting expenses on their education and living.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

15.10.2018
PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No