In the High Court of Punjab and Haryana at Chandigarh

FAO-5601 of 2016(O&M)
Date of Decision: 22.2.2018

Kusum Rani and others
---Appellants
versus
Rakesh Kumar and another
---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Sagar Aggarwal, Advocate
for the appellants
None for the insurance company

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Rekha Mittal, J.

The claimants are in appeal seeking enhancement of compensation on account of death of Kuldeep Sharma in a motor vehicular accident that took place on 3.1.2015.

The Motor Accidents Claims Tribunal, Karnal (in short "the Tribunal") has awarded compensation of Rs.62,03,934/-, detailed hereunder:-

(i)	Total monthly income assessed	Rs. 32565/-
(ii)	50% of (i) above to be added as future prospects=	Rs. 32565 + 16282= Rs. 48,847/- per month
(iii)	1/3rd of (ii) deducted as personal expenses of the deceased	Rs. 16282. The amount remains Rs. 48, 847 – 16,282=Rs. 32565/- per month
(iv)	The assessment of per annum comes to	Rs. 32565x12=Rs. 3,90,780/- per annum
(v)	Standard deduction of 10% of income tax	Rs. 3,90,780 – Rs. 39,078=Rs. 3,51,702/-
(vi)	Compensation after applying multiplier of 17 comes to	Rs. 3,51,702 x 17=Rs. 59,78,934/-
(vii)	Loss of consortium to petitioner No. 1	Rs. 1,00,000/-
(viii)	Funeral and transportation etc.	Rs. 25,000/-
(ix)	Compensation on account of love and affection	Rs. 1,00,000/-

Counsel for the appellants has the grievance to express only qua the issue of statutory deduction of income tax from salary paid to the deceased who was working as CPL (Corporal) in Indian Air Force. It is argued that the Tribunal has initially deducted a sum of Rs. 2000/- per month towards TDS (Tax deducted at source) from salary and computed loss of dependency on monthly income of Rs. 32,565/-. Again, the Tribunal has applied standard deduction of 10% on annual income of Rs. 32,565/- per month. According to counsel, if liability to pay income tax is applied correctly, annual dependency would be more than what is assessed by the Tribunal.

There is no representation on behalf of the insurance company earlier being represented by a counsel.

Perusal of para 24 of the award makes it evident that gross salary of the deceased was Rs. 34,565/- out of which an amount of Rs. 2000/- per month was being deducted towards TDS. Taking into consideration annual income of the deceased at Rs. 4,14,780 (34,565 x 12), liability to pay income tax at the relevant time is calculated at Rs. 16,478/-. After deducting tax liability, income available for computing loss of dependancy is Rs. 3,98,302/- per annum.

The multiplier, deduction for personal expenses and addition in income for future prospects allowed by the Tribunal are affirmed. In this manner, loss of dependency comes to Rs. 3,98,302 x 17 =67,71,134 +33,85,567 (50% thereof)=1,01,56,701 -33,85,567(1/3rd)= Rs.67,71,134/-.

Under conventional heads, the Tribunal has awarded an amount of Rs. 2.25 lakhs, detailed hereinbefore. The claimants shall be entitled 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, detailed hereinder:-

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

The total compensation is **Rs. 68,41,134/-** and the additional amount is **Rs. 6,37,200/-** (68,41,134 – 62,03,934), payable with interest @ 7.5% per annum from the date of petition till realization to widow and minor son of the deceased in the proportion 30:70. The amount falling to share of the minor shall be invested in a fixed deposit till he attains the age of majority or for a period of three years, whichever is later. Interest accruing on the FDR shall be payable to guardian of the minor for meeting expenses on his education and living.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

22.2.2018
PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No