IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.6843 of 2015 (O&M)
Date of decision: 14.09.2018

SUKHDEV KAUR AND ORS. ... Appellants

Versus

DEVINDER KUMAR AND ORS. ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Amit K. Saini, Advocate
for the appellants.

Mr. Mrigank Sharma, Advocate
for respondent No.3.

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REKHA MITTAL, J. (Oral)

CM-21320-CII-2015

Heard.

Allowed as prayed for. Delay of 61 days in filing the appeal stands condoned.

Main Case

The claimants are in appeal seeking enhancement of compensation on account of death of Harvir Singh @ Happy in a motor vehicular accident that took place on 17.05.2013.

The Tribunal has awarded compensation of Rs.6,50,000/-, detailed hereunder:-

1. Monthly income of the deceased Rs.5000/-

2. Multiplier	14
3. Deduction for personal expenses	1/4th
4. Loss of dependency	Rs.6,30,000/-
5. Expenses on funeral	Rs.5000/-
6. Loss of estate	Rs.5000/-
7. Loss of consortium	Rs.10,000/-

The plea of the claimants is that Harvir Singh was running dairy business and a garment shop thereby earning more than Rs.25,000/- per month. The Tribunal, in view of discussion in paras 15 and 16 of the award, has refused to accept plea of the claimants either with regard to avocation much less income of the deceased at Rs.25,000/- per month. Counsel for the appellants has failed to point out any materials worthwhile to challenge correctness of factual findings of the Tribunal negating plea of the claimants that the deceased either was doing dairy business or running a readymade garments shop. Under the circumstances, the Tribunal has treated the deceased as a casual labour and assessed his income at Rs.5000/- per month.

The minimum wage of an unskilled labour at the relevant time was Rs.5695/- per month. The claimants have placed on record matriculation certificate of deceased Harvir Singh which was taken into consideration for recording age of the deceased at the time of death. Taking into consideration the minimum wage coupled with educational qualification of the deceased, it would be in the fitness of things, if income of the deceased is assessed at Rs.6000/- per month.

The deceased was born on 29.10.1973 and passed away on

17.05.2013 and accordingly, he was less than 40 years of age on the day of occurrence. Claimants shall be entitled to addition in income for future prospects @ 40%. The multiplier would be 15. Deduction for personal expenses allowed by the Tribunal is correct and affirmed. In this manner, loss of dependency is calculated at Rs.11,34,000/- [(Rs.6000 x 12 x 15) + (40% future prospects) – (1/4th deduction for personal expenses)].

Under conventional heads, claimants shall be entitled to Rs.70,000/-, 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 Rs.12,04,000/- and the additional amount is Rs.5,54,000/- (12,04,000 - 6,50,000), payable with interest @7.5% per annum from the date of petition till realization to Ranvir Kaur and Karanvir Singh, minor children of the deceased, in equal ratio, to be invested in fixed deposit till they attain the age of majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

14.09.2018 **(REKHA MITTAL)**
ashok **JUDGE**

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