IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-6874-2015 (O&M)
Date of Decision : 16.08.2018

Nancy and others ...... Appellants

Versus

Sudhir and others ..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

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Present: Mr. Divay Sarup, Advocate
for the appellants.

Ms. Alka Joshi, Advocate
for the respondent No.4-insurance company.

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AJAY TEWARI, J. (Oral)

This appeal has been filed for enhancement of compensation and for modifying the award dated 04.07.2015 passed by the Tribunal awarding compensation of Rs.9,05,000/- alongwith interest @ 7.5% p.a. on account of death of Nisha.

Counsel for the appellants has argued that the Tribunal has correctly assessed the income of the deceased as part-time legal worker as Rs.2000/- p.m. but has erred in taking her contribution as a house-wife only @ Rs.3000/- p.m. As per him, in this case the accident had taken place in the year 2014 and in the matter of ***United India Insurance Co. Ltd. vs. Sube Singh and others, passed in FAO No.218 of 2014, decided on 15.01.2014***, this Court had upheld the contribution of a home maker to be

Rs.9000/- p.m and against that judgment SLP No.24916 of 2014 titled as *United India Insurance Co. Ltd. vs. Sube Singh and others* was also dismissed by the Supreme Court on 08.09.2014. This judgment was subsequently followed by another Bench of this Court in ***Bharti AXA General Insurance Co. Ltd. vs. Col. Kuldip Singh Deo, passed in FAO No.4869 of 2017, decided on 18.08.2017***. As per the counsel, viewed from this perspective the income of the deceased should have been Rs.11,000/- p.m.

Counsel for the insurance company, however, points out that this is not a case where the deceased was a full time home-maker and once her professional income has been considered she cannot be given the full benefit of the two cited judgments.

In my opinion, there is some weight in the argument of the counsel for the insurance company. Consequently, it is held that the deceased was earning Rs.2000/- p.m. as a part-time volunteer and her contribution as a home-maker would be Rs.7000/- p.m.

Another problem which would have to be solved would be that on the professional income the claimants would have entitled to add future prospects but then there would also be deduction on account of personal expenses. In the circumstances, I award the future prospects of 40% on the income of Rs.2000/- and a deduction of 1/3rd. Obviously, on the contribution as a home-maker there can neither be increase (on account of future prospects) or any deduction.

Counsel for the insurance company further points out that under the conventional head a sum of Rs.2,25,000/- has been awarded and as per the judgment of the Supreme Court in ***National Insurance Company***

Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009, it could not be more than Rs.70,000/-.

I find this to be correct. Consequently, I reduce an amount of Rs.1,55,000/- under the conventional heads.

The enhanced amount shall carry the same rate of interest as awarded by the Tribunal. However, the entire enhanced amount would be divided between appellants No.1 and 2 and the management would be as per the directions of the Tribunal.

Appeal stands disposed of and the award is modified accordingly.

Since the main cases have been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

August 16, 2018
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Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No