IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-8863-2014 (O&M)
Date of decision: 23.08.2018

SUNITA & ORS ... Appellants

Versus

SADE & ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Sushil Jain, Advocate for the appellants.

Mr. Pradeep Kumar, Advocate for the insurance company.

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REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Rohtash in a motor vehicular accident that took place on 18.10.2011.

The Tribunal has awarded compensation of Rs.8,14,450/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.4500/-
2. Addition in income for future prospects	30%
3. Multiplier	13
4. Deduction for personal expenses	1/4th
5. Loss of dependency	Rs.6,84,450/-
6. Expenses on funeral	Rs.25,000/-
7. Loss of estate	Rs.5000/-
8. Loss of consortium	Rs.1,00,000/-

Counsel for the appellants would argue that the deceased was working as Munshi at Ganesh Bhatta Company and drawing salary of Rs.10,000/- per month. The claimants examined Satpal, Social Security

Service Assistant, Provident Fund Office, Karnal PW6 and Naveen Malik, owner of Ganesh Bhatta Company PW7 to prove income of the deceased. The witnesses produced on record documents Exs.PW6/A to PW6/C by Satpal and PW7/A by Naveen Malik. It is argued that the Tribunal has wrongly discarded the documentary evidence while assessing income of the deceased at Rs.4500/- per month.

Counsel representing the insurance company has supported assessment made by the Tribunal but with the additional submission that the Tribunal has wrongly allowed addition in income for future prospects @ 30% as against 25%, admissible in the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**. Compensation allowed under conventional heads needs to be restricted to Rs.70,000/- in the light of judgment in **Pranay Sethi and others's case (supra)**.

Satpal PW6 produced on record documents Ex.PW6/A to PW6/C. In the document Ex.PW6/B in column No.4, wages of members from Sr. No.1 to 8 have been recorded and against Sr. No.5 pertaining to Rohtash, the same is mentioned as Rs.8220/-. In PW6/C for the year 2011-12 in column No.4 pertaining to Rohtash, it is recorded as Rs.50,000/-. In document Ex.PW7/A, wage of Rohtash is shown to be Rs.6500/- per month from April, 2011 till October, 2011 and for November, 2011 it is stated to be Rs.4500/- as Rohtash died on 18.10.2011. The three documents available on record do not reconcile with each other. Taking a cumulative view on the basis of documentary evidence available on record, income of the deceased is assessed at Rs.6500/- per month. Claimants shall be entitled to addition in income for future prospects @ 25%. Deduction for personal expenses and multiplier adopted by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.9,50,625/- [(Rs.6500 x 12 x 13) + (25% future prospects) – (1/4th deduction for personal expenses)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that 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.10,20,625/- and the additional amount is Rs.2,06,175/- (10,20,625 – 8,14,450), payable with interest @7.5% per annum from the date of petition till realization, to be shared by the minor claimants in the ratio 30:40:30, to be invested in fixed deposit payable on their attaining the age of majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

23.08.2018 **(REKHA MITTAL)**
ashok **JUDGE**

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