IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 7341 of 2015 (O&M)
Date of Decision:- 09.02.2018

Sudesh Kumar @ Sudesh Kumar Sood & Ors. ....Appellants

Versus

Karnail Singh & Ors. ...Respondents

CORAM: HON'BLE MRS.JUSTICE REKHA MITTAL

Present: Mr. P.S. Punia, Advocate, for the appellants.

None for respondent No.3.

REKHA MITTAL, J. (Oral)

Claimants are in appeal seeking enhancement of compensation on account of death of Sanjeev Sood @ Sanjeev Kumar in a motor vehicular accident that took place on 26.09.2013.

The Tribunal has awarded compensation of ₹14,65,000/-, detailed hereunder:-

Monthly income of the deceased	=	₹10,000/-
Multiplier	=	16
deduction for personal expenses	=	1/4th
Loss of dependency	=	₹14,40,000/-
Funeral Expenses	=	₹25,000/-

Counsel for the claimants would argue that the deceased was working as computer operator with M/s J.S. Solutions Pvt. Ltd., Khanna at a salary of ₹15,000/- per month. Gaurav Bhagrath, Director of the aforesaid concern was examined to prove employment and income of the deceased and he produced on record salary slips Ex. P3 to P40, sufficient to establish plea of the claimants that the deceased was earning ₹15,000/- per month. In the alternative, it is argued that in case income of the deceased is not assessed on the basis of testimony of Gaurav Bhagrath PW-2, adequate income may be assessed on the basis of educational qualification of the deceased who was matriculate, as deposed by his mother. Another submission made by counsel is that the Tribunal has not allowed benefit of increase in income for future prospects @40%. Adequate compensation may be allowed under conventional heads.

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

The Tribunal has assessed income of the deceased at ₹10,000/- per month, but did not rely upon testimony of Gaurav Bhagrath PW2 that the deceased was working with his concern as a computer operator. On 25.09.2017 the claimants were provided with an opportunity to produce on record any document with regard to deceased having any skills in computer operation based upon his training much less educational qualification in this regard. Counsel for the appellants has fairly informed that the deceased had no such qualification and apprised the Court that mother of the deceased had specifically deposed that the deceased had not done any course in computer operation.

Gaurav Bhagrath PW2 has not produced appointment letter, joining report or any other records maintained by M/s J.S. Solutions Pvt. Ltd. with regard to employment and income of the deceased. The witness has produced computer generated salary slips Ex. P3 to P40 but the same do not bear signatures of the deceased. Under the circumstances, Tribunal has rightly refused to rely upon documents Ex. P3 to P40 for assessing income of the deceased. However, keeping in view the fact that the deceased was 35 years old and left behind family consisting of his minor children aged 10 years and 07 years and his wife passed away few days before his death coupled with that he was matriculate and by getting clue from minimum wage available to an unskilled worker at the relevant time, income of the deceased is assessed at ₹7000/-per month. Multiplier applied by the Tribunal is affirmed. Claimants shall be entitled to increase in income for future prospects @ 40%. The Tribunal has applied deduction for personal expenses @ 1/4th. The application for compensation was filed by the parents and two minor children of the deceased There is no evidence that father of the deceased aged about 54 years was dependent upon his income. As such deduction for personal expenses would be 1/3rd. In this manner, loss of dependency comes to ₹13,44,000/- (₹7000 x 12 x 16) + ₹5,37,600/- (40% thereof) - ₹6,27,200 (1/3rd thereof) = ₹12,54,400/-

Under conventional heads, claimants shall be entitled to Rs.30000/- , detailed below :-

Funeral expenses	=	₹15,000/-
Loss of estate	=	₹15,000/-

Total compensation comes to **₹12,84,400/-**. The compensation is reduced to the extent of ₹1,80,600/-

The appeal is disposed of in the aforesaid terms.

February 09, 2018 **(REKHA MITTAL)**
tripti **JUDGE**

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No