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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-7635-2015 (O&M)
Date of decision : 30.01.2018

Smt. Babita Devi and others

... Appellant(s)

Versus

Gurmukh Singh and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. B.S. Bairagi, Advocate
for the appellants.

Mr. Vinod Gupta, Advocate
for respondent No.3/Insurance Company.

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AMIT RAWAL, J. (ORAL)
CM-24056-CII-2015

For the reasons stated in the application, which is supported by an affidavit, the application is allowed and the delay of 183 days in filing the appeal is condoned.

FAO-7635-2015

The appeal has been preferred by the claimants being widow, minor daughters and parents of Ishwar, who unfortunately died in a motor accident occurred on 06.08.2013, for enhancement of compensation against the Award passed by the Tribunal, whereby a compensation of ₹9,89,000/- along with interest @ 7.5% per annum, has been awarded.

Learned counsel appearing on behalf of the appellants-claimants submits that the Tribunal has awarded the compensation to the tune of ₹9,89,000/-, which is on lower side as the deceased-Ishwar aged 31 years was earning ₹ 7,500/- per month by doing the job of Class-IV on daily wages in M.C.D., Delhi, but the Tribunal took the income of the deceased as ₹6,000/-. The Tribunal has also granted ₹1,00,000/- on account of loss of consortium and an amount of ₹25,000/- towards funeral expenses. Moreover, no increase was made in the salary towards future prospects, thus, there is scope for enhancement.

On the other hand, learned counsel appearing on behalf of the Insurance Company submits that the Tribunal has taken care of all the heads sufficiently and there is no scope for further enhancement, thus, urges this Court for dismissal of the appeal.

I have heard the learned counsel for the parties and appraised the paper book and of the view that there is a scope of enhancement as the compensation to the tune of ₹9,89,000/- is on lower side as no increase towards future prospects has been made. Accordingly, I take the income of the deceased as ₹6,000/- per month as has been taken by the Tribunal and provided 40% increase towards future prospects and apply a multiplier of '16', much less, deduction of $1/4^{th}$ to assess the loss of dependency as ₹12,09,600/-.

As regards the grant of compensation towards conventional heads, the Tribunal has already granted ₹1,00,000/- towards loss of consortium and an amount of ₹25,000/- on account of funeral expenses, which is on higher side. Accordingly, I hereby reduce the same from ₹1,25,000/- to ₹70,000/- towards conventional heads i.e. loss of estate, loss of consortium and funeral expenses as per the latest judgment dated 31.10.2017 rendered by Hon'ble the Supreme Court in ***SLP (Civil)***

No.25590 of 2014 titled as ***"National Insurance Company Ltd. V/s Pranay Sethi and others"*** and by exercising the power under Order 41 Rule 33 CPC as per the *ratio decidendi* culled out by the Hon'ble Supreme Court in ***"U.P.S.R.T.C. V/s Km. Mamta and others" (2016) 4 SCC 172.***

In all the compensation payable shall be ₹12,79,600/-. The amount in excess over what has already been provided by the Tribunal shall also attract interest @ 6% per annum from the date of filing of the appeal till its realization. However, the appellants-claimants shall not be entitled to interest for a period of 183 days i.e. delay in filing the appeal. The enhanced amount shall be distributed amongst the appellants-claimants in the ratio of 2:2:2:1:1. The liability shall remain the same as has already been determined by the Tribunal.

The award passed by the Tribunal is modified to the above extent and the appeal stands allowed.

(AMIT RAWAL)
JUDGE

30.01.2018
Yogesh Sharma

Whether speaking/reasoned **Yes/ No** ✓

Whether Reportable **Yes/ No** ✓