IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-9329-2014 (O&M)
Date of decision: 08.03.2018

GAJNA & ORS ... Appellants

Versus

SATVIR AND ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Gaurav Singla, Advocate
for the appellants.

None 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 Ram Kishor in a motor vehicular accident that took place on 18.02.2013.

The Tribunal has awarded compensation of Rs.5,70,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.4500/-
2. Multiplier	15
3. Deduction for personal expenses	1/3rd
4. Loss of dependency	Rs.5,40,000/-
5. Loss of consortium and loss of love and affection	Rs.20,000/-
6. Loss of estate	Rs.5000/-
7. Funeral expenses	Rs.5000/-

Counsel for the claimants would argue that income of the deceased assessed by the Tribunal is on lower side and needs enhancement. Claimants are entitled to increase in income for future prospects @ 40% and adequate compensation under conventional heads. The application for compensation was filed by the widow and three minor children of the deceased, therefore, admissible deduction in the light of judgment of Hon'ble the Supreme Court **Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77** should be $1/4^{th}$.

There is no representation on behalf of the insurance company.

The plea of the claimants is that the deceased was earning Rs.12,000/- per month by doing labour work and milk vending. However, claimants failed to adduce sufficient evidence to establish their plea in this regard. The Tribunal has assessed income of the deceased at Rs.4500/- per month by treating him as a casual workmen. On the basis of notification issued by the State of Haryana fixing minimum wages and available at the relevant time, income of the deceased is liable to be assessed at Rs.5350/- per month and ordered accordingly.

Claimants shall be entitled to increase in income for future prospects @ 40% in the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**. The Tribunal has rightly applied multiplier of 15 for computing loss of dependency. However, as the application has been filed by the widow and three minor children of the deceased, deduction for personal expenses would be 1/4th. In this manner, loss of dependency comes to Rs.10,11,150/- (Rs.5350 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.10,81,150/- and the additional amount is Rs.5,11,150/- (10,81,150 – 5,70,000), payable with interest @7.5% per annum from the date of petition till realization to the claimants in equal share. The share of minor children shall be deposited in FDRs payable on their attaining age of majority or for a period of three years, whichever is later. The interest accruing on FDRs shall be payable to their mother for meeting expenses on their education and living.

The appeal is partly allowed in the aforesaid terms.

08.03.2018 **(REKHA MITTAL)**
ashok **JUDGE**

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