IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

233 FAO No.7747 of 2015 (O&M)

Date of decision: 07.12.2018

DIKSHYA & ORS ... Appellants

Versus

RAM SWARUP & ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ajit Sihag, Advocate for the appellants.
None for the respondents.

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REKHA MITTAL, J. (Oral)

CM No.24334-CII of 2015

Heard.

Allowed as prayed for. Delay of 7 days in filing the appeal stands condoned.

Main Case

The claimants are in appeal seeking enhancement of compensation on account of death of Manoj Kumar in a motor vehicular accident that took place on 02.12.2012 but Manoj Kumar died on 06.12.2012.

The Tribunal has awarded compensation of Rs.23,08,155/-, detailed hereunder:-

1. Monthly income of the deceased (including addition in income for future prospects @ 30%)	Rs.15,600/-
2. Multiplier	15
3. Deduction for personal expenses	1/4th
4. Loss of dependency	Rs.21,06,000/-
5. Medical expenses	Rs.1,42,155/-
6. Loss of love and affection to minor children	Rs.10,000/- (each)
7. Expenses on funeral	Rs.25,000/-
8. Loss of estate	Rs.5000/-
9. Loss of consortium	Rs.10,000/-

Counsel for the appellants would argue that the Tribunal has assessed income of the deceased @ Rs.12,000/- per month by taking into consideration income tax return for the year 2009-10 wherein annual income is shown to be Rs.1,42,538/-. It is argued that in the latest income tax return for the year 2012-13 Ex.P4, income of the deceased is Rs.1,53,660/- per annum and the said income should be taken into consideration for computing loss of dependency.

Perusal of the records would reveal that income tax return for the year 2012-13 was filed on 31.03.2013 but the deceased passed away in December, 2012. Along with the return, no details of the income or any profit/loss account has been appended. That being so, the Tribunal has rightly ignored the income tax return Ex.P4 filed subsequent to death of the deceased. On the basis of previous income tax return, the Tribunal has assessed income of the deceased at Rs.12,000/- per month. Claimants shall be entitle to addition in income for future prospects @ 25%. Multiplier and deduction for personal expenses applied by the Tribunal are correct and affirmed as the deceased was more than 40 years of age on the day of occurrence having born on 01.09.1972, recorded in Ex.R1. In this manner, loss of dependency is calculated at Rs.20,25,000/- [(12,000 x 12 x 15) + (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 entitle to Rs.1,50,000/-, detailed hereunder:-

1. Loss of consortium to claimants No.1 to 3	Rs.1,20,000/- (Rs.40,000/- each)
2. Expenses on last rites	Rs.15,000/-
3. Loss to estate	Rs.15,000/-

Total compensation is Rs.23,17,155/- and the additional amount is Rs.9000/- (23,17,155 - 23,08,155), payable with interest @7.5% per annum from the date of petition till realization.

The appeal is disposed of in the aforesaid terms.

07.12.2018 **(REKHA MITTAL)**
ashok **JUDGE**

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