IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 9622 of 2014 (O&M)
Date of decision : October 31, 2018

Gurlal @ Lal Singh and another
...... Appellants

v.

Baljinder @ Balwinder Singh and another
...... Respondents

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CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

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Present : Mr. SS Momi, Advocate
for the appellants.

Brig. BS Taunque, Advocate
for respondent No.2.

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Ajay Tewari, J (Oral)

This appeal has been filed by the claimants for enhancement of compensation. Since a limited issue has been raised, further detailed reference to the facts would not be necessary.

Counsel for the appellants has argued that the Tribunal has wrongly fixed the income as ₹ 4600/- per month because as per the Schedule attached to the Minimum Wages Act in the State of Haryana for the period 1.7.2013 onwards, the minimum wages for an unskilled labourer were ₹5341/- say ₹ 5500/-. Counsel for respondent No.2 does not dispute this. I take the income as ₹ 5500/- per month.

Counsel for the appellants has further argued that the Tribunal erred in not granting any future prospects. As per him, in view of the judgment of the Supreme Court in National Insurance Company Limited vs Pranay Sethi and others, 2017(4) RCR (Civil) 1009, 40% had to be awarded on account of future prospects. Counsel for the Insurance Company is not in a position to deny this also. Consequently, I direct that future prospects of 40% be granted in this case.

Counsel for the appellants has further argued that in Civil Appeal No.9581 of 2018, Magma General Insurance Company Ltd vs Nanu Ram @ Chuhru Ram and others, where the claimants were father, brother and unmarried sister, the Supreme Court has upheld the deduction of 1/3rd. However, in that case I find that their Lordships have discussed the decision in Sarla Verma and others vs Delhi Transport Corporation and another, AIR 2009 (SC) 3104 and noticed that in a case where a large number of persons are dependent upon a deceased, deduction can be limited to 1/3rd even though he may be a bachelor. Their Lordships in Magma General Insurance Company Ltd's case (supra) went on to hold that the claimants were old father and unmarried sister and consequently upheld the deduction of 1/3rd. In the present case, the claimants are old father and old mother and in these circumstances, it is not a case where deduction should be 1/3rd, and consequently I hold that deduction in the present case would be one-half.

Counsel for the Insurance Company, however, states that under the conventional heads, a sum of ₹ 1.20 lakh has been awarded and a sum of ₹ 50,000/- has to be reduced. Counsel for the appellants has, however, argued that in Magma General Insurance Company Ltd's case (supra), apart from giving ₹ 40,000/- as filial consortium, an amount of ₹ 50,000/- was awarded to each of the claimants for loss of love and affection and if that is taken into consideration, an amount of ₹ 1.20 lakh is correct. I hold so.

Counsel for the appellants has argued that parental consortium should be given to both the parents on the analogy of the decision in Magma General Insurance Company Ltd's case (supra) where the father and the sister were also given consortium. To my mind, however, there is an important distinction. In Magma General Insurance Company Ltd's case (supra), both the LRs/claimants belong to Class II category of heirs. In the present case, one of the LRs/claimants is Class I heir (mother), while the second is Class II heir (father). Under the Hindu Succession Act, Class I heir completely excludes Class II heir. In the circumstances, I do not deem it appropriate to grant parental consortium to both the father and the mother and restrict it to the mother.

Rest of the Award would remain unchanged. This appeal stands disposed of.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

(AJAY TEWARI)
JUDGE

October 31, 2018
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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No