

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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FAO No.9955 of 2014 (O&M)
Date of decision: 17.07.2018

RITU & ORS

... Appellants

Versus

JOGINDER @ DILLU & ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ram Pal Verma, Advocate for the appellants.

Mr. Navin Kapur, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

CM-27536-37-CII-2014

Heard.

Allowed as prayed for. Delay of 150 days in filing the appeal and 106 days in refiling the appeal stands condoned subject to the condition that the claimants shall forgo interest for the period of delay in case compensation is enhanced.

Main Case

The claimants are in appeal seeking enhancement of compensation on account of death of Sunil in a motor vehicular accident that took place on 20.12.2012.

The Tribunal has awarded compensation of Rs.7,00,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.5000/-
2. Multiplier	15
3. Deduction for personal expenses	1/4 th
4. Loss of dependency	Rs.6,75,000/-
5. Loss of estate	Rs.10,000/-
6. Loss of consortium	Rs.10,000/-
7. Expenses on funeral and transportation of dead body	Rs.5000/-

The plea of the claimants is that Sunil was running fruits and fruits juice stall and a property dealer by profession. Claimants failed to adduce satisfactory much less convincing evidence to establish their plea in regard to avocation and income of the deceased. The Tribunal has assessed income of the deceased at Rs.5000/- per month by taking a clue from notification issued by the State of Haryana with regard to minimum wage available at the relevant time. There is no justification for increase in income of the deceased. However, claimants shall be entitled to benefit of future prospects @ 40%. Deduction for personal expenses and multiplier adopted by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.9,45,000/- [(Rs.5000 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.10,15,000/- and the additional amount is Rs.3,15,000/- (10,15,000 - 7,00,000), payable with interest @ 7.5% per annum from the date of petition till realization except for the period of delay in filing and refiling the appeal, payable to minor children of the deceased in equal ratio, to be invested in fixed deposit, payable on their attaining the age of majority or for a period of three years, whichever is later. The interest accruing on FDRs shall be payable to mother of the minors for meeting expenses on their education and living.

The appeal is partly allowed in the aforesaid terms.

(REKHA MITTAL)
JUDGE

17.07.2018
ashok

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No