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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-999-2015 (O&M)
Date of decision : 18.01.2018

Savitri and another

... Appellant(s)

Versus

Naresh and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Anil Ghanghas, Advocate
for the appellants.

Mr. S.K. Chauhan, Advocate
for respondent No.1.

Mr. Mani Ram, Advocate
for respondent No.2.

Ms. Vandana Malhotra, Advocate
for respondent No.3/Insurance Company.

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AMIT RAWAL, J. (ORAL)

CM-2763-CII-2015

For the reasons stated in the application, which is duly supported by an affidavit, the application is allowed and the delay of 81 days in filing the appeal is condoned.

FAO-999-2015

The appeal has been preferred by the claimants being parents of Rajender, who died in a motor accident occurred on 26.07.2013, for enhancement of compensation against the Award passed by the Tribunal, whereby a compensation of ₹5,86,600/- along with interest @ 6% per annum, had been awarded.

Learned counsel appearing on behalf of the appellants-claimants submits that the Tribunal has awarded the compensation to the tune of ₹5,86,600/-, which is on lower side. The deceased was working as Driver and was earning ₹15,000/- per month, but the Tribunal took the income of the deceased as ₹ 4800/- per month. The Tribunal applied the multiplier of '13', whereas it should have been '18'. Moreover, no increase was made in the salary towards future prospects, much less, no compensation under conventional heads has been awarded except ₹25,000/- on account funeral expenses, which is also too meagre, 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 ₹5,86,600/- is on lower side and the Tribunal has wrongly applied the multiplier of '13', which should have been '18'. Accordingly, I take the income of the deceased as ₹4,800/- per month as taken by the Tribunal and provide 40% future prospects and apply a multiplier of '18', much less, deduction of ½ to assess the loss of dependency as ₹7,25,760/-. I will further add to it ₹30,000/- towards conventional heads i.e. loss of estate 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".

In all the compensation payable shall be ₹7,55,760/-. 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. The enhanced amount shall be distributed equally between the appellants-claimants. 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

18.01.2018
Yogesh Sharma

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

Whether Reportable **Yes/ [✓ No]**