

In the High Court of Punjab and Haryana at Chandigarh

FAO No. 2998 of 2017(O&M)
Date of Decision: 30.4.2018

Promila Devi and others

---Appellants

versus

Rohtash and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Dheeraj Narula, Advocate
for the appellants

Rekha Mittal, J.

The claimants are in appeal seeking enhancement of compensation on account of death of Jagdish in a motor vehicular accident that took place on 13.7.2015.

The Motor Accidents Claims Tribunal, Sirsa (in short “the Tribunal”) has awarded compensation of Rs. 20,61,000/-, detailed hereunder:-

Monthly income of the deceased	Rs. 8,000/-
Addition for future prospects	50%
Deduction for personal expenses	1/4 th
Multiplier	17
Loss of dependency	Rs. 18,36,000/-
funeral expenses and transportation	Rs. 25,000/-
Loss of consortium	Rs. 1,00,000/-
Love and affection	Ts. 1,00,000/-

The sole submission made by counsel for the appellants is that

income of the deceased assessed by the Tribunal is on lower side. It is argued that deceased was owner of six acres of land and had been cultivating the same. It is further argued that as the deceased left behind family consisting of his widow, two minor children and parents, it is difficult to accept that the family could sustain with meager income of Rs. 8000/- per month. Counsel would inform that appeal preferred by the insurance company has been dismissed vide order dated 23.11.2016 passed by this court in FAO No.6493 of 2016 titled United India Insurance Company Limited vs. Promila and others”.

Before advertng to the submissions made by counsel for the appellants, it is appropriate to note that the Tribunal is obligated to assess just and reasonable compensation to make good the loss as the money can do. Equally settled is that compensation should not be a bonanza or source of profit. In the case at hand, appeal filed by the insurance company is stated to be dismissed vide order dated 23.11.2016 prior to judgment passed by Hon'ble the Supreme Court **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270**. The Tribunal has allowed benefit of increase in income for future prospects @ 50% which should be 40% in the light of judgment in **Pranay Sethi and others' case (supra)**. Similarly, the Tribunal has awarded an amount of Rs. 2.25 lakhs under conventional heads which cannot be more than Rs. 70,000/- in the light of aforesaid judgment, therefore, the Tribunal has already allowed benefits to the claimants which are more than what can be allowed in view of latest judgment of Hon'ble the Supreme Court.

The Tribunal has assessed income of the deceased at Rs.

8,000/- per month with regard to loss of his services to cultivate/manage land measuring six acres. The minimum wage of an unskilled worker at the relevant time was Rs. 5886.67/- per month. Taking a cumulative view of the discussion made hereinbefore, I do not find any justification for increase in income of the deceased or enhancement of compensation.

One of the arguments raised by counsel is that with amount of Rs. 8,000/- P.M. family of the deceased including the deceased himself could not survive. One of the claimants is father of the deceased. There is nothing on record suggestive of the fact that father of the deceased is suffering from any disability to impair his capacity to work and earn livelihood for his family or to contribute to income of the family. In the given scenario, contention raised in this regard is not meritorious and liable to be rejected.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. No order as to costs. As the appeal has been decided on merits, application for condonation of delay is of academic relevance only.

(Rekha Mittal)
Judge

30.4.2018

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No