IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 855 of 2019 O&M)
Date of decision: 16.12.2019

Premwati and others ....*Appellants*

Versus

Naresh Kumar and others ....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Gulshan Nandwani, Advocate
for the appellants

None for the insurance company

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Rekha Mittal, J. (Oral)

CM 2730 CII of 2019

Allowed as prayed for.

Main case

The claimants are in appeal seeking enhancement of compensation on account of death of Sunil Kumar in a motor vehicular accident that took place on 02.08.2017.

The Tribunal awarded Rs.19,46,400/-, detailed hereunder:-

-Monthly income of the deceased	Rs.13,100/-
-Deduction	1/4th
-Multiplier	16
-Loss of dependency	Rs.18,86,400/-
- Loss of consortium to widow	Rs.40,000/-
-Funeral expenses	Rs.15,000/-
-Loss of estate	Rs.15,000/-

-Deduction of last rites expenses Rs.10,000/-
received from ESI

The insurance company has been served but remains unrepresented.

The plea of claimants is that the deceased was working as Assistant Inspector/Manager with Gupta Metal Sheets, Delhi Road Rewari. He had also been taking tuition and earning therefrom. They examined Jitender Kumar, Senior Executive (HR and Administration) of the aforesaid concern to prove employment and income of deceased and on the basis thereof, the Tribunal has assessed monthly income of deceased at Rs.13,100.00 and the same is affirmed.

The claimants examined Surender Kumar (PW4) and Ram Pat (PW5) to substantiate their plea that deceased had been giving tuition. The Tribunal has noticed, in para 26 of the award, that Ram Pat (PW5) had deposed that Sunil Kumar was working in a company situated at Delhi Road-Rewari and he used to work on shift basis. Their children used to attend tuition classes from 4.00 p.m. to 6.00 p.m. everyday. The fact elicited in cross examination of Ram Pat is sufficient to show that his testimony is not based upon factual and correct scenario. The Tribunal has rightly refused to accept contention of the claimants that the deceased was taking tuition classes and had income, in this regard.

The application for compensation has been filed by the widow, minor child and parents of the deceased. Counsel for the appellants has failed to point out any material on record that father of deceased had any disability rendering him dependent upon his married son. In the given circumstances, admissible deduction for personal expenses would be 1/3rd.

The deceased was less than 31 years of age as he was 30 years and about 8 months old at the relevant time. Hon'ble the Supreme Court in ***Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil)*** *77* has allowed multiplier of '17' for age bracket of 26-30 years and '16' for 31-35 years. The Court has not laid down any criteria as to how multiplier is to be applied, if the deceased happens to be more than 30 years but less than 31 years. Taking into consideration the legislative intent behind the provisions providing for compensation, the appellants are entitle to benefit thereof and as such, admissible multiplier would be '17'.

The claimants shall be entitle to benefit of addition in income for future prospects @ 50% as the deceased had been working with Gupta Metal Sheets, Delhi Road Rewari continuously with effect from 01.06.2010 to 02.08.2017. In this manner, loss of dependency comes to Rs.26,72,400.00 (Rs.26,72,400.00 *i.e.* 13,100 x 12 x 17 + Rs.13,36,200.00 (50% addition) – Rs.13,36,200.00 (1/3rd deduction).

Compensation allowed under the conventional heads is in complete consonance with the judgments of Hon'ble the Supreme Court ***National Insurance Company Limited v. Pranay Sethi and others, 2017 SCC 1270*** and ***Sebastiani Lakra and others vs. National Insurance Company Limited and another, 2018 AIR (SC) 5034.***

In view of the above, total compensation is Rs.27,42,400.00 (26,72,400 + 40,000 + 15,000 + 15,000) and additional amount is Rs.7,96,000.00 (27,42,400.00 – 19,46,400.00) payable with interest @ 7.5% per annum from the date of petition till realization to minor Jatin, to be invested in fixed deposit till he attains majority or for a period of three years, whichever is later. Interest accruing on fixed deposit shall be paid to his mother for meeting day-to-day expenses.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

16.12.2019
Mohan Bimbra

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