In the High Court of Punjab and Haryana at Chandigarh

Date of Decision: 15.10.2019

FAO No. 322 of 2001 (O&M)

Gurdarshan Singh and another

---Appellants

versus

Hamidan Qureshi and others

---Respondents

FAO No. 323 of 2001 (O&M)

Mohinder Singh and another

---Appellants

versus

Hamidan Qureshi and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. D.K.Kaushal, Advocate
for the claimants

Ms. Vandana Malhotra, Advocate,
for the insurance company

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Rekha Mittal, J.

This order will dispose of FAO Nos. 322 and 323 of 2001 as these have emerged out of the same accident that took place on 19.12.1996 wherein Charanjit Kaur and Gurjant Singh sustained injuries that proved fatal.

FAO No. 322 of 2001 has been filed by claimants seeking enhancement of compensation qua death of Charanjit Kaur whereas the other appeal has been filed for enhancement of compensation in respect of death of Gurjant Singh.

FAO No. 322 of 2001

The Motor Accidents Claims Tribunal, Faridkot (in short "the Tribunal") awarded Rs. 1,00,800/- (rounded off to Rs. 1 lakh), detailed hereunder:-

Monthly income of the deceased	Rs. 900/-
Deduction for personal expenses	1/3rd
Multiplier	14
Loss of dependency	Rs. 1,00,800/-

Counsel for the appellants would argue that income of deceased assessed by the Tribunal is grossly inadequate and needs enhancement. As the deceased was 22 years old, appropriate multiplier may be applied on the basis of age of the deceased. Adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company, on the other hand, would argue that as the deceased got married few days before the unfortunate occurrence, appellants being parents of deceased Charanjit Kaur are not entitle to loss of dependency. It is further argued that even if claim is allowed, there is no justification for awarding additional compensation.

So far as entitlement to loss of dependency, no such plea was raised by the insurance company before the Tribunal. This apart, the insurance company neither preferred an appeal to assail the award nor filed any cross objections. No claim has been preferred by parents-in-law of deceased with regard to death of Charanjit Kaur. In the given circumstances, contention raised by counsel for the insurance company is not tenable.

The plea of claimants is that deceased was a lady tailor thereby earning Rs. 4000-5000/- per month. They examined Mela Singh AW3 to corroborate their version with regard to avocation and income of deceased. There is nothing on record suggestive of the fact that deceased ever received any training for doing the work of stitching of clothes. No customer of the deceased was examined to prove that she was engaged in stitching clothes of ladies. In the given scenario, the Tribunal has rightly considered the deceased to be a house maker. Taking a clue from notification issued by the State of Punjab fixing minimum wage coupled with that a house maker has multifarious duties to perform, value of services of the deceased is assessed at Rs. 2000/-. No deduction for personal expenses is made, in view of Division Bench Judgment of this Court **Paramjit Singh and another vs. Dilbagh Singh alias Bagga and others 2014(4)R.C.R.(Civil) 895.** The admissible multiplier, on the basis of age of deceased, is 18. In this view of the matter, loss of dependency is calculated at Rs. 2000 x 12 x 18 = 4,32,000/-.

Under conventional heads, claimants shall be entitle to Rs. 10,000/- for expenses on funeral and last rites.

Total compensation is Rs. 4,42,000/- and the additional amount is Rs. 3,41,200/-, payable with interest @ 7.5% per annum from the date of petition till realization to mother of the deceased, to be invested in fixed deposit for two years.

The appeal is partly allowed in the aforesaid terms.

FAO-323 of 2001

The Tribunal awarded Rs. 1,75,000/-, detailed hereunder:-

Monthly income of the deceased	Rs. 2100/-
Deduction for personal expenses	1/3rd
Multiplier	10
Loss of dependency	Rs. 1,68,000/-
Expenses on last rites etc.	Rs. 7,000/-

The plea of claimants is that deceased was working as a driver in Dubai thereby earning Rs. 25,000/- per month. They examined Malkiat Singh AW2 to prove that deceased was working as driver on his truck at salary of Rs. 4000/- per month. The Tribunal has noticed that claimants produced photocopy of passport of Gurjant Singh but there is no entry with regard to deceased having visited Dubai. The claimants did not produce driving licence, if any, possessed by Gurjant Singh to establish that deceased was working as a truck driver. When the case is examined in the light of notification issued by the State of Punjab fixing minimum wage at the relevant time, there is no justification for allowing additional compensation with regard to monthly income of deceased and as such, income of deceased assessed by the Tribunal is affirmed. Claimants shall be entitle to addition in income for future prospects @ 40%. Claim has been filed by parents of deceased, therefore, deduction for personal expenses would be 50%. The deceased was 27 years old and admissible multiplier is 17. In this context reference can be made to judgments of Hon'ble the Supreme Court **Smt.Sarla Verma and others vs. Delhi Transport Corporation and another 2009 ACJ 1298**, **Munna Lal Jain vs. Vipin Kumar Sharma 2015(3) RCR (Civil) 447** and **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270**. In this manner, loss of dependency is calculated at Rs. 2,99,880/- [2100 x 12 x17 + (40% thereof) – (50%)].

Under conventional heads, compensation allowed is modified to the effect that claimants shall be entitle to Rs. 25,000/-, detailed hereunder:-

Loss of estate	Rs. 15,000/-
Funeral expenses	Rs. 10,000/-

Total compensation is Rs. 3,24,880/- and the additional amount is Rs. 1,49,880/-, payable with interest @ 7.5% per annum from the date of petition till realization to mother of the deceased, to be invested in fixed deposit for a period of two years.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

15.10.2019
PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No