IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

-.-

FAO 2266 of 2010 (O&M)
Date of decision: 17.12.2019

Parmeshwari and others ....*Appellants*

Versus

Gurmesh and others ....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Divay Sarup, Advocate
for the appellants

Mrs Madhu Sharma, Advocate
for the insurance company

-.-

Rekha Mittal, J. (Oral)

CM 21066 CII of 2019

Prayer in this application is for early hearing the appeal.

Counsel for parties have agreed that the appeal may be taken up for hearing and disposed of.

Ordered accordingly.

Application stands disposed of.

Main case.

The claimants are in appeal seeking enhancement of compensation on account of death of Ashok Kumar in a motor vehicular accident that took place on 09.08.2007.

The Tribunal awarded Rs.11,04,500/-, detailed hereunder:-

-Monthly income of the deceased Rs.9,270/-

-Deduction for personal expenses	1/4th
-Multiplier	13
-Loss of dependency	Rs.10,84,356/-
rounded off	Rs.10,84,500
-Loss of estate	Rs.5,000/-
-Funeral expenses	Rs.5,000/-
-Loss of consortium	Rs.10,000/-

Counsel for the appellants would argue that deceased was born on 10.08.1970 and died on 11.08.2007 though the accident took place on 09.08.2007. As such, he was 37 years old at the time of unfortunate occurrence. It is further argued that compensation may be assessed afresh, in view of age of the deceased, entitlement of the claimants to addition in income for future prospects and deduction with regard to financial assistance available under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 (in short, 'Rules 2006'). Adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company, on the contrary, has supported assessment made by the Tribunal.

The deceased was working as Conductor in Haryana Roadways. Satbir Singh Sehrawat, Accounts Officer (PW7) was examined to prove employment and income of the deceased. He produced last pay certificate Ex.P7 with regard to salary of Rs.8,270/- per month and revised pay scale Ex. P8 with effect from 01.02.2006, on the basis whereof, salary of deceased was re-fixed at Rs.10,880/- per month on 11.08.2007. The Tribunal has also noticed that the deceased was paid overtime for the years 2005 and 2006 and his average monthly income of overtime comes to

Rs.1,000/-. In view of last pay drawn, entire income of Rs.10,880/- shall be taken into consideration for assessing loss of dependency. The deceased was due for retirement on 31.08.2025. By extending benefit of addition qua overtime, monthly loss of dependency comes to Rs.11,880/-. Claimants shall be entitle to addition in income qua future prospects @ 50%. Deduction for personal expenses allowed is correct and affirmed. Admissible multiplier would be 15. As such, loss of dependency comes to Rs.24,05,700/- (Rs.21,38,400/- *i.e.* 11,880 x 12 x 15 + Rs.10,69,200 (50% addition) - Rs.8,01,900/- (1/4th deduction).

Under conventional heads, compensation allowed is modified to the effect that claimants shall be entitle to Rs.70,000.00 (Rs.40,000.00 for loss of consortium, Rs.15,000.00 each qua loss to estate and funeral expenses), in the light of 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.24,75,700/-.

As in the instant case, date of retirement is beyond the period of 12 years, compassionate assistance would be available only for a period of 12 years @ Rs.10,880/- per month and total amount comes to Rs.15,66,720/-. Only 50% thereof is amenable to deduction out of compensation assessed by this Court. In this context, reference can be made to judgment of this Court ***Kamla Devi and others vs Sahib Singh and others*** (FAO No. 3064 of 2013, decided on 30.11.2017). After deducting Rs.7,83,360/-, compensation payable comes to Rs.16,92,340/- (24,75,700-

7,83,360) and additional amount is Rs.5,87,840/- (16,92,340 – 11,04,500), payable with interest @ 7.5% per annum from the date of petition till realization to widow of the deceased, to be invested in fixed deposit for a period of two years.

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

(Rekha Mittal)
Judge

17.12.2019
Mohan Bimbra

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