IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

-.-

FAO 2269 of 2015 (O&M)
Date of decision: 29.03.2019

Kalawati and another ....*Appellants*

Versus

Harpal and others ....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. J P Sharma, Advocate
for the appellants

Mr. R K Bashmaboo, Advocate and
Mr. Vikas Sharma, Advocate
for respondent No.4

-.-

Rekha Mittal, J. (Oral)

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 28.08.2013.

The Tribunal has awarded Rs.6,88,000/-, detailed hereunder:-

-Monthly income of the deceased	Rs.4,800/-
-Deduction for personal expenses	1/3rd
-Multiplier	17
-Loss of dependency	Rs.6,52,800/-
-Loss of consortium	Rs.25,000/-
-Transportation and last rites	Rs.10,000/-

The sole submission made by counsel for the appellants is that the claimants are entitle to addition in income for future prospects.

Counsel representing the insurance company, on the contrary, would argue that the claim has been preferred by the mother and brother of the deceased but there is nothing on record suggestive of the fact that brother of deceased was dependent upon his earning and as such, admissible deduction for personal and living expenses should be 50%.

The Tribunal has assessed income of the deceased at Rs.4,800/- per month. The deceased was less than 30 years of age and there is nothing on record suggestive of the fact that he had any disability/impairment. Taking a clue from notification issued by the State of Haryana fixing minimum wage at the relevant time, income of the deceased is assessed at Rs.5,350/- per month.

Counsel for the appellants has failed to point out any material on record to prove that claimant No. 2 was dependent upon income of the deceased. In the given circumstances, only mother of the deceased is considered as dependent for computing loss of dependency. The mother of the deceased shall be entitle to addition in income for future prospects @ 40%. However, admissible deduction for personal and living expenses would be 50% in the light of judgment of Hon'ble the Supreme Court ***Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77.*** As such**,** loss of dependency is Rs.7,63,980/- (Rs.10,91,400/- *i.e.* 5,350 x 12 x 17 + Rs.4,36,560/- (40% addition) – Rs.7,63,980 (50% deduction).

Under conventional heads, the claimants shall be entitle to Rs.30,000.00 (Rs.15,000.00 each qua loss to estate and funeral expenses), admissible 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.***

Total compensation is Rs.7,93,980/- and additional amount is Rs.1,05,980/- (Rs.7,93,980/- - Rs.6,88,000/-), payable to mother of the deceased along with interest @ 7.5% per annum from the date of petition till realization, to be invested in fixed deposit for a period of two years.

In view of the above, the appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

29.03.2019
Mohan Bimbra

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