IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

221 FAO-1330-2016 (O&M)

Date of decision: 17.09.2019

ASHA & ORS ... Appellants

Versus

SHER SINGH & ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Sudhir Aggarwal, Advocate for the appellants.
Mr. Vinod Gupta, Advocate for the insurance company.
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REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Manoj Kumar in a motor vehicular accident that took place on 12.03.2015.

The Tribunal awarded Rs.9,31,500/-, detailed hereunder:-

Monthly income of the deceased	Rs.5000/-
Multiplier	17
Deduction for personal expenses	1/4th
Loss of dependency	Rs.7,65,000/-
Expenses on funeral	Rs.20,000/-
Loss of estate	Rs.10,000/-
Loss of consortium	Rs.1,00,000/-
Reimbursement of medical expenses	Rs.36,500/-

The plea of claimants is that deceased was earning Rs.20,000/- by working as commission agent/salesman with M/s Indian Herbal Lab besides giving tuition to the children. They examined Pawan Kaushik PW4 and he deposed that his two children studying in 6th and 3rd standard were taking tuition from Manoj Kumar on payment of Rs.2200/- per month. Anil Kumar, proprietor of M/s Indian Herbal Lab, Faridabad PW6 was examined to prove that deceased was working with the said company on commission basis. The witness had deposed that the company had paid Rs.1,74,048/- in cash to the deceased on account of commission for sale of medicines for the financial year 2014-15 and proved the certificate Ex.P5. The Tribunal has noticed that no evidence with regard to academic or technical qualification of the deceased has been produced. PW6 has not produced any appointment letter nor the aforesaid payment allegedly made to the deceased being shown in the income tax return or balance sheet. The witness further deposed that no income tax return was filed for the past 2-3 years. In the given circumstances, the Tribunal has rightly refused to rely upon testimony of Anil Kumar PW6 with regard to income of the deceased. 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.6000/- per month. Claimants shall be entitle to addition in income for future prospects @ 40%. Multiplier and deduction for personal expenses applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.12,85,200/- [(6000 x 12 x 17) + (40% future prospects) – (1/4th deduction for personal expenses)].

Under conventional heads, compensation allowed is modified to the effect that claimants shall be entitle to Rs.70,000/-, detailed hereunder:-

1. Loss of consortium	Rs.40,000/-
2. Loss of estate	Rs.15,000/-
3. Funeral expenses	Rs.15,000/-

The sum of Rs.36,500/- towards reimbursement of medical expenses allowed by the Tribunal is affirmed.

In view of the above, total compensation is Rs.13,91,700/- and additional amount is Rs.4,60,200/- (13,91,700 - 9,31,500), payable with interest @ 7.5% per annum from the date of petition till realization, to children of the deceased in equal ratio, to be invested in fixed deposit till they attain majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

17.09.2019 **(REKHA MITTAL)**
ashok **JUDGE**

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