In the High Court of Punjab and Haryana at Chandigarh

FAO- 2385 of 2015 (O&M)
Date of Decision: 11.12.2019

Raj Kaur

---Appellant

versus

Jasvir Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Dheeraj Narula, Advocate
for the appellant

Mr. Rajneesh Malhotra, Advocate,
for the insurance company

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Rekha Mittal, J.

The claimant is in appeal seeking enhancement of compensation on account of death of Gurmeet Singh in a motor vehicular accident that took place on 1.5.2013.

The Motor Accidents Claims Tribunal, Sirsa (in short "the Tribunal") awarded Rs.13,27,000/-, detailed hereunder:-

Monthly income of the deceased	Rs. 6000/-
Addition in income for future prospects	50%
Deduction for personal expenses	1/3rd
Multiplier	16
Loss of dependency	Rs. 11,52,000/-
Love and affection	Rs. 50,000/-
Loss of consortium to widow	Rs. 1,00,000/-
Funeral expenses	Rs. 25,000/-

Counsel for the appellant would argue that deceased was running a medical store under the name and style Nagi Medical Hall, Circular Road, Sirsa. Income tax return for the assessment year 2011-12 Ex. PW3/1 filed by the deceased was proved by Pankaj Kumar, an official of income tax office, Sirsa PW3. It is argued that Tribunal has committed an error by refusing to rely upon the income tax return for assessing loss of income of the deceased.

Counsel representing the insurance company, on the contrary, would argue that income tax return only for the assessment year 2011-12 has been produced, therefore, the Tribunal has rightly refused to rely upon the same.

The claimants examined the aforesaid official from the income tax office, Sirsa and he produced attested copy of ITR Ex. PW3/2 and copy of acknowledgment Ex. PW3/1. The income tax return was submitted on line on 13.2.2013 but the assessee died on 1.5.2013. Taking into consideration the income shown in the income tax return duly proved on record, it is difficult to sustain findings of the Tribunal that the same cannot be taken into account for want of producing account books maintained by Nagi Medical Hall, Sirsa. The annual income of deceased is taken at Rs. 1,59,990/-. The appellant shall be entitle to future prospects @ 40%. Deduction for personal expenses and multiplier applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.23,89,184/- [1,59,990x16 + (40% thereof) – (1/3rd)].

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

Loss of consortium	Rs. 40,000/-
Expenses on funeral	Rs. 15,000/-

Loss of estate Rs. 15,000/-

Total compensation is Rs. 24,59,184/- and the additional amount is Rs. 11,32,184/-, payable 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.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

11.12.2019
PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No