IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

225 FAO-2456-2015 (O&M)

Date of decision: 15.07.2019

AMAR PATI AND ORS ... Appellants

Versus

RAJJAK ETC ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Ms. Manju Sillay, Advocate for
Mr. RC Gupta, Advocate for the appellants.
Ms. Sheenu Sura, 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 Abhishek in a motor vehicular accident that took place during the intervening night of 28/29.09.2013.

The Tribunal awarded Rs.7,95,000/-, detailed hereunder:-

Monthly income of the deceased	Rs.8000
Multiplier	15
Deduction for personal expenses	50%
Loss of dependency	Rs.7,20,000/-
Expenses on funeral	Rs.25,000/-
Loss of love and affection to claimant No.1-mother	Rs.50,000/-

Counsel for the appellants would argue that the deceased was a student of B.Tech, Mechanical stream in 5th semester with Guru Nanak Institute of Technology, Village Hema Majra, Tehsil Barara, District Ambala and as such, income of the deceased assessed by the Tribunal is grossly inadequate. Claimants may be extended benefit of addition in income for future prospects and appropriate multiplier on the basis of age of the deceased.

Counsel representing the insurance company, on the contrary, would argue that though the deceased was a student of 5th semester in the aforesaid institute but Amit Sharma PW2 has revealed in his cross examination that the deceased got supplementary in all the subjects in 2nd semester and 4th semester and three subjects in 1st semester and 3rd semester each, therefore, it is difficult to expect that he would have completed his course and become a mechanical engineer.

Indisputably, the deceased was a student of 5th semester in B.Tech in Guru Nanak Institute of Technology, Village Hema Majra, Tehsil Barara, District Ambala. There is nothing on record suggestive of the fact with regard to status of the aforesaid institution. The deceased was not performing well as has been brought-forth in cross examination of Amit Sharma PW2, highlighted by counsel for the insurance company. In the given scenario, I do not find any justification for assessing income of the deceased at a rate higher than what has been allowed by the Tribunal. Claimants shall be entitle to addition in income for future prospects @ 40%. Deduction for personal expenses allowed by the Tribunal is correct and affirmed. On the basis of age of the deceased who was less than 25 years old, admissible multiplier is 18. In this manner, loss of dependency is calculated at Rs.12,09,600/- [(8000 x 12 x 18) + (40% future prospects) – (50% deduction for personal expenses)].

Under conventional heads, compensation awarded by the Tribunal is modified to the effect that claimants shall be entitle to Rs.30,000/-, detailed hereunder:-

1. Expenses on last rites Rs.15,000/-
2. Loss of estate Rs.15,000/-

Total compensation is Rs.12,39,600/- and the additional amount is Rs.4,44,600/- (12,39,600 - 7,95,000), 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 three years.

The appeal is partly allowed in the aforesaid terms.

15.07.2019 **(REKHA MITTAL)**
ashok **JUDGE**

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