IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

227 FAO-2166-2016 (O&M)

Date of decision: 09.07.2019

PUSHPA DEVI & ORS ... Appellants

Versus

MANISH KUMAR & ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Surinder S. Virk, Advocate for the appellants.
Mr. Sachin Ohri, Advocate for the insurance company.
****

REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Buta Singh @ Balbir Singh in a motor vehicular accident that took place on 07.10.2013.

The Tribunal awarded Rs.10,42,609/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.5000/-
2. Multiplier	14
3. Deduction for personal expenses	1/3rd
4. Loss of dependency	Rs.5,59,944/-
5. Expenses on funeral	Rs.25,000/-
6. Loss of consortium	Rs.1,00,000/-
7. Transportation expenses	Rs.10,000/-
8. Loss of love and affection	Rs.50,000/-
9. Reimbursement of medical expenses	Rs.2,97,665/-

The plea of claimants is that the deceased was a truck driver at salary of Rs.8000/- per month plus Rs.200/- as daily allowance.

Counsel for the appellants would argue that as per the allegations brought forth in the first information report lodged against driver of offending car, it has been specifically mentioned that the deceased was changing punctured tyre of the truck when the accident in question took place. It is further argued that the claimants have placed on record copy of no objection certificate regarding renewal of driving licence of deceased Buta Singh and as such, income of the deceased is liable to be assessed on the basis of wage of a highly skilled worker. Claimants may be allowed benefit of addition in income for future prospects and appropriate deduction for personal expenses may be applied.

Counsel representing the insurance company, on the contrary, would state that compensation under conventional heads may be restricted to Rs.70,000/- in the light of judgments of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270** and **Sebastiani Lakra and others vs. National Insurance Company Limited and another AIR 2018 SC 5034**.

Taking a clue from minimum wage of a highly skilled worker 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 @ 25%.

The claim was preferred by the widow, two daughters and one minor son of the deceased. One of the daughters of deceased was married at the time of occurrence, therefore, deduction for personal expenses applied by the Tribunal is correct and affirmed. Multiplier applied by the Tribunal is in consonance with the standard formula. In this manner, loss of dependency is calculated at Rs.8,40,000/- [(6000 x 12 x 14) + (25% future prospects) – (1/3rd deduction for personal expenses)].

Reimbursement of medical expenses to the tune of Rs.2,97,665/- allowed by the Tribunal is affirmed.

Under conventional heads, compensation allowed by the Tribunal 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/-

Total compensation is Rs.12,07,665/- and the additional amount is Rs.1,65,056/- (12,07,665 - 10,42,609), payable with interest @ 7.5% per annum from the date of petition till realization, to widow and minor son of the deceased, in equal ratio. The amount falling to share of minor shall be invested in fixed deposit till his attaining majority or a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

09.07.2019 **(REKHA MITTAL)**
ashok **JUDGE**

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