IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

222 FAO-4881-2014 (O&M)

Date of decision: 15.01.2019

PARAMJIT KAUR & ORS ... Appellants

Versus

SEWAK DEEP SINGH & ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Vivek Suri, Advocate for the appellants.
Mr. Neeraj Khanna, 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 Tehal Singh, Constable in Punjab Police in a motor vehicular accident that took place on 20.08.2012.

The Tribunal has awarded compensation of Rs.20,46,752/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.13,920/-
2. Addition in income for future prospects	30%
3. Multiplier	14
4. Deduction for personal expenses	1/3rd
5. Loss of dependency	Rs.20,26,752/-
6. Expenses on funeral	Rs.5000/-
7. Loss of estate	Rs.5000/-
8. Loss of consortium	Rs.10,000/-

The claimants examined HC Balwinder Singh, Pay Clerk, Accounts Branch, SSP office, Patiala to prove salary of the deceased. He produced pay slip Ex.P4. The respondent examined Rajinder Singh, Pension Clerk office of SSP, Patiala. He would depose that after death of Tehal Singh, Paramjit Kaur wife of the deceased is getting monthly basic pension of Rs.6,960/- plus usual allowances. He proved the details of service record and payment to legal representatives Exs.R7 and R8.

The Tribunal has assessed salary of the deceased at Rs.13,920/- by relying upon document Ex.R7 that pertains to salary for the month of August, 2012 upto 20.08.2012. A perusal of salary slip Ex.P4 clearly reveals that total salary of the deceased was Rs.28,710/- out of which an amount of Rs.9070/- was deducted towards GPF, GPF advance-I, LIC and welfare etc.

The deductions made from salary cannot be taken out of consideration for assessing loss of dependency. In the given circumstances, the entire salary of the deceased shall be taken into account for computing loss of dependency. After deducting income tax to the extent of Rs.14,452/- annual income of the deceased is Rs.3,30,068/-.

The Tribunal has rightly allowed addition for future prospects @ 30%. However, as the application for compensation has been filed by the widow, two minor children and mother of the deceased, admissible deduction for personal expenses would be 1/4th. The multiplier applied by the Tribunal is correct and affirmed. Accordingly, loss of dependency is calculated at Rs.45,05,428/- [(3,30,068 x 14) + (30% future prospects) – (1/4th deduction for personal expenses)].

Under conventional heads, claimants shall be entitle to Rs.70,000/-, in the light of judgments of Hon'ble the Supreme Court **Sebastiani Lakra and others vs. National Insurance Company Limited and another, AIR 2018 SC 5034** and **National Insurance Company Limited vs. Pranay Sethi and others, 2017 SCC 1270,** 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.45,75,428/- and the additional amount is Rs.25,28,676/- (45,75,428 - 20,46,752), payable with interest @ 7.5% per annum from the date of petition till realization, to be paid to the minor claimants in equal ratio, to be invested in fixed deposit till they attain the age of majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

15.01.2019 **(REKHA MITTAL)**
ashok **JUDGE**

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