208(2 cases)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. **CM-339-CII-2013 in/and**
FAO(MACT) No.68-2013
Date of Decision: July 03, 2019

Satya Devi

......Appellant

Versus

Hans Raj and others

.....Respondents

2 CM-337-CII-2013 in/and
FAO(MACT) No.67-2013

Sohana Akhtar and others

.....Appellants

Versus

Hans Raj and others

......Respondents

CORAM: HON'BLE MS.JUSTICE NIRMALJIT KAUR

Present: Mr.Vaibhav Sehgal, Advocate for the appellants.

Mr.Jagjit Singh Chatrath, Advocate for
Mr.Ashwani Talwar, Advocate
for the Insurance Company.

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NIRMALJIT KAUR, J. (ORAL)

CMs-339-337-CII-2013

Both the applications for exemption are allowed as prayed for.

Main Appeal

This order shall dispose of both the above captioned FAOs, as both the appeals have arisen out of a common judgment.

Both the above-mentioned appeals have been filed by their respective appellant-claimants for enhancement. In FAO No.68-2013, the Tribunal took the income of the deceased as ₹3000.00 per month, whereas appellant-claimants are claiming ₹3,400.00 per month on the basis of minimum wages. Likewise, 40% future prospects should have been ₹1360.00 instead of ₹1,200.00 and the multiplier should have been 18 instead of 11. Learned counsel for the appellant-claimants also very fairly states that the Tribunal has wrongly deducted the amount as 1/3rd whereas it should be 50% and hence, the amount would come to ₹5,14,080.00 (₹2380.00 x 12 x 18). Similarly, the appellant-claimants are also entitled for ₹30,000/- under the head 'Conventional', which are given by the Tribunal only ₹4,500.00. Thus, the total amount that should have been awarded to the appellant-claimants is ₹5,44,080.00, i.e. ₹5,14,080.00 + ₹30,000.00 instead of ₹2,68,500.00.

Learned counsel for the respondent-Insurance Company although vehemently opposed but is not in a position to dispute the fact that the appellant-claimants are entitled to the above enhancement as per judgment rendered by the Hon'ble Apex Court in the case of **National Insurance Company Limited** **vs** **Pranay Sethi and others**, 2017(16) SCC 680.

In view of the admitted legal position and the principle laid down by the Apex Court in **Pranay Sethi and others**(supra), the appellant-claimants are entitled to the enhancement of ₹2,75,580.00, over and above the amount that has already been paid. Accordingly the said amount alongwith interest @ 6% per annum from the date of filing of the appeal be deposited in the same terms as held by the Tribunal within two months from the date of receipt of a certified copy of this order. In case the said amount is not deposited within two months from the date of receipt of a copy of this order, the same shall be deposited alongwith interest @ 7.5% instead of 6% per annum.

Similarly, in FAO No.67 of 2013, the appellant-claimants are entitled to future prospects @ 50% as deceased was a Government employee and only 28 years of age. Similarly, the appellant-claimants are also entitled to ₹70,000/- under the head 'Conventional', under which only ₹9,500.00 were granted. In this manner, the appellant-claimants are entitled to ₹23,65,000.00 in the following manner:-

Income	₹10,000.00
Future Prospects @ 50%	₹5,000.00
1/4th deduction	₹3,750.00
Dependency	₹11,250.00 (₹15,000.00 - ₹3750.00)
Convention Head	₹70,000.00

Whereas, the appellant-claimants have been granted only ₹15,00,000.00.

Once again, learned counsel for the respondent-Insurance Company is not in a position to dispute the fact that the appellant-claimants are entitled to the above mentioned enhanced amount, i.e. ₹23,65,000.00 as per the judgment rendered by the Apex Court in **Pranay Sethi and others** (supra)

Accordingly, the enhanced amount of ₹8,65,000.00 (₹23,65,000.00 - ₹15,00,000.00) alongwith interest @ 6% per annum from the date of filing of the present appeal be deposited in the same terms as held by the Tribunal within two months from the date of receipt of a certified copy of this order. In case the said amount is not deposited within two months from the date of receipt of a copy of this order, the same shall be deposited alongwith interest @ 7.5% instead of 6% per annum.

Both the appeals are disposed of accordingly.

July 03, 2019 **(NIRMALJIT KAUR)**
meenuss **JUDGE**

1. **Whether speaking/reasoned ?** **Yes/No**
2. **Whether reportable ?** **Yes/No**