IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
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Date of decision: 24.01.2019

FAO 3601 of 2016 (O&M)

Kanta Devi *....Appellant*

versus

Parveen and others *......Respondents*

FAO No. 5628 of 2015 (O&M)

Zile Singh *.......Appellant*

versus

Parveen and others *......Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present : Ms Bhanvi Sood, Advocate for
Mr. Aditya Jain, Advocate
for the appellant (FAO NO. 3601 of 2016)

Mr. S K Yadav, Advocate
for the appellant (FAO 5628)

Mr. Pradeep Kumar, Advocate
for the insurance company

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Rekha Mittal, J. (Oral)

This order will dispose of aforesaid appeals as these have emerged out of the same award dated 20.03.2015 passed by the Motor Accidents Claims Tribunal, Rewari (in short, 'the Tribunal') whereby compensation has been assessed on account of death of Sunil Kumar in a motor vehicular accident that took place on 17.04.2014.

FAO No. 3601 of 2016 has been filed by mother of the deceased whereas the other appeal (FAO No. 5628 of 2015) has been preferred by father of the deceased seeking enhancement of compensation.

The Tribunal has awarded compensation of Rs.9,54,880.00, detailed hereunder:-

Monthly income of the deceased	Rs.11,070.00
Deduction for personal expenses	50.00%
Multiplier	14
Loss of dependency	Rs.9,29,880.00
Funeral expenses	Rs.25,000.00

The plea of the claimants is that the deceased was working as Shift Engineer in Jones Land Lasalle Meghraj Building Operations Pvt. Ltd. Gurgaon at salary of Rs.17,670.00 per month. Anil Kumar Jain, Accounts Manager of the aforesaid concern (PW3) was examined and deposed that Shri Sunil Kumar was working as Shift Engineer in their Company since 05.05.2013 and proved appointment letter Ex.PW3/A, copy of annual salary certificate, Ex.PW3/B and copies of salary slips for the months of February 2014 to April 2014, Ex.PW3/C to Ex.PW3/D. The Tribunal has noticed in para 9 of the award that as per salary slip for the month of March 2014, basic pay of the deceased was Rs.7,380.00, HRA Rs.3,690.00, Conveyance Allowance Rs.800.00, Special allowance Rs.4,550.00 and Medical allowance Rs.1,250.00. The Tribunal has ignored conveyance allowance, special allowance and medical allowance and assessed income of the deceased at Rs.11,070.00. As benefit of these allowances was available to family of the deceased when examined in the light of judgments of Hon'ble the Supreme Court **National Insurance Company Limited vs. Indira Srivastava and others 2008(1)RCR (Civil) 359** and **Manasvi Jain vs.**

Delhi Transport Corporation 2014 (3) RCR (Civil) 313, it is difficult to sustain findings of the Tribunal disallowing benefit of the aforesaid allowances while computing loss of dependency. As such, entire income of the deceased is to be taken into consideration for computing compensation.

Anil Kumar Jain (PW3), in his cross examination has denied the suggestion that Shri Sunil Kumar was not permanent employee in their company. In the given scenario, the claimants shall be entitle to addition in income for future prospects at the rate of 50%.

As the deceased was 25 years old unmarried son of the claimants, admissible multiplier is 18. In this context, reference can be made to judgemetns of Hon'ble the Supreme Court ***Sarla Verma & Ors vs. Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil)*** *77*, ***Munna Lal Jain and others vs. Vipin Kumar Sharma and others, 2015(3) RCR (Civil) 447*** *and* ***National Insurance Company Limited vs. Pranay Sethi and others, 2017 SC 1270.***

The Tribunal has allowed deduction for personal expenses to the extent of 50% and the same is affirmed. In view of the above, loss of dependency is calculated at Rs.28,62,540.00 (Rs.38,16,720.00 i.e. 17,670/- x 12 x 18 + Rs.19,08,360.00 (50% addition) - Rs.28,62,540.00 (50% deduction)

Under conventional heads, claimants shall be entitle to Rs.30,000.00 (Rs.15,000.00 each qua loss to estate and funeral expenses), admissible in the light of judgments of Hon'ble the Supreme Court in ***Pranay Sethi's case (supra)*** and ***Sebastiani Lakra and others vs. National***

Insurance Company Limited and another, 2018 AIR (SC) 5034.

Total compensation is calculated at Rs.28,92,540.00 and additional amount is Rs.19,37,740.00 (Rs.28,92,540.00 – Rs.9,54,800.00) payable with interest at the rate of 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 appeals are disposed of in the aforesaid terms.

(Rekha Mittal)
Judge

24.01.2019
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