IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
-.-

FAO 484 of 2015 (O&M)
Date of decision: 05.02.2019

Bala Devi and another ...*Appellants*

versus

Sanjeev Kumar and others ..*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present : Mr. Kuldip Singh, Advocate
for the appellants

Mr. S P Arora, Advocate
for respondent No. 3
-.-

Rekha Mittal, J. (Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Shishpal in a motor vehicular accident that took place on 06.12.2012.

The Tribunal has awarded compensation of Rs.7,11,200/-, detailed hereunder:-

Monthly income of the deceased	Rs.4,500.00
Deduction for personal expenses	1/3rd
Multiplier	16
Loss of dependency	Rs.6,91,200.00
Funeral expenses	Rs.10,000.00
Loss of consortium	Rs.10,000.00

Counsel for the appellants would argue that income of the deceased assessed by the Tribunal is on lower side and needs enhancement. The claimants are entitle to addition in income for future prospects at the rate of 40%. Compensation allowed under conventional heads is grossly inadequate.

Counsel representing the insurance company, on the contrary, has supported findings of the Tribunal qua assessment of income of the deceased.

The claimants examined Ram Mehar (PW3) who deposed that deceased was working as head mechanic for the last about fifteen years and earning Rs.30,000.00 per month. Testimony of Ram Mehar in this regard does not find corroboration from any documentary evidence nor from oral statement of a witness who had availed services of the deceased as a Mechanic. However, the Tribunal has not rejected testimony of Ram Mehar with regard to the deceased being a Mechanic. Taking a clue from the notification issued by the State of Haryana fixing minimum wage of different categories of employees, income of the deceased is assessed at Rs.5,600.00 per month. The claimants shall be entitle to addition in income for future prospects at the rate of 40%. Deduction for personal expenses and multiplier applied by the Tribunal are correct and affirmed. In view of the above, loss of dependency is calculated at Rs.10,03,520.00 (Rs.10,75,200.00 i.e. 5600 x 12 x 16 + Rs.4,30,080.00 (40% additional) - Rs.5,01,760.00 (1/3rd deduction))

Under conventional heads, the claimants shall be entitle to Rs.70,000.00 (Rs.40,000.00 for loss of consortium, Rs.15,000.00 each qua loss to estate and funeral expenses), in the light of judgments of Hon'ble the Supreme Court ***National Insurance Company Limited v. Pranay Sethi and others, 2017 SCC 1270*** and ***Sebastiani Lakra and others vs. National***

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

Total compensation is Rs.10,73,520.00 and the additional amount is Rs.3,62,320.00 (Rs.10,73,520.00 - Rs.7,11,200.00) payable with interest at the rate of 7.5% per annum from the date of petition till realization to be shared by the claimants in the ratio 70:30.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

05.02.2019
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