IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

238 FAO-4541-2016 (O&M)

Date of decision: 13.05.2019

JASBIR KAUR AND ANR ... Appellants

Versus

SUKHWINDER SINGH AND ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Anil K. Spehia, Advocate for the appellants.
Mr. Ashwani Talwar, 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 Surjit Singh in a motor vehicular accident that took place on 08.02.2014.

The Tribunal awarded Rs.6,29,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.7000/-
2. Multiplier	9
3. Deduction for personal expenses	1/3rd
4. Loss of dependency	Rs.5,04,000/-
5. Expenses on funeral	Rs.25,000/-
6. Loss of consortium	Rs.1,00,000/-

Counsel for the appellants would argue that deceased was owner of five acres of land and as such, income of the deceased assessed by the Tribunal is on lower side and needs enhancement. Appellants are entitle to addition in income for future prospects.

Counsel representing the insurance company would urge that income of the deceased assessed by the Tribunal is on higher side and compensation allowed under conventional heads needs to 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.**

The plea of claimants is that deceased was agriculturist plus doing business of dairy farming in addition to labour job in Central Potato Farm Badshahpur, Jalandhar thereby earning Rs.25,000/- per month. They have produced on record jamabandi Ex.P2 wherein Surjit Singh son of Hari

Singh is recorded to be co-owner to the extent of 1/3rd share in land measuring 38 kanal 17 marlas, meaning thereby that the deceased was owning land less than 2 acres. The land holding co-owned by the deceased would be available to his family. Taking a clue from notification issued by the State of Punjab fixing minimum wage at the relevant time coupled with land holding of the deceased, there is no scope for enhancement of income of the deceased and as such, income assessed by the Tribunal is affirmed. Appellants shall be entitle to addition in income for future prospects but compensation allowed under conventional heads needs to be restricted to Rs.70,000/-. In the given circumstances, interest of justice would be served, if quantum of compensation assessed by the Tribunal is kept intact.

The Tribunal has awarded interest @ 7.5% per annum from the date of petition till realization only if the compensation is not paid within 3 months. The Tribunal has not assigned any reason to extend this concession to the respondents therein or to deny payment of interest to the claimants. That being so, findings of the Tribunal with regard to allowing conditional interest cannot be allowed to sustain and accordingly set aside. The appellants shall be entitle to interest @ 7.5% per annum on the amount of compensation assessed by the Tribunal from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

13.05.2019 **(REKHA MITTAL)**
ashok **JUDGE**

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