IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 5702 of 2015(O&M)
Date of decision: 05.07.2019

Vipin Kumar ....*Appellant*

Versus

Balwinder Singh and others ....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Viney Saini, Advocate for
Mr. G S Nagra, Advocate
for the appellant

Mr. Paul S Saini, Advocate and
Mr. Vipul Sharma, Advocate
for respondent No. 3 - insurance company

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Rekha Mittal, J. (Oral)

CM 17934 CII of 2015

Prayer in this application is for condoning delay of 80 days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit and arguments advanced, the application is allowed and delay of 80 days in filing the appeal stands condoned.

Main case

The claimant is in appeal seeking enhancement of compensation on account of death of Jyoti Sharma in a motor vehicular accident that took place on 27.10.2014.

The Tribunal has awarded Rs.6,27,000/-, detailed hereunder:-

-Monthly income of the deceased	Rs.3,000/-
-Multiplier	17
-Funeral expenses	Rs.10,000/-
-Loss of estate	Rs.5,000/-

The plea of the claimant is that deceased was earning Rs.35,000/- per month by taking tuition and she was also taking coaching of competitive examination of Banking.

The Tribunal has noticed that there is no clear much less sufficient evidence on record with regard to occupation and income of deceased.

Counsel for the appellant would argue that though there is no clear proof with regard to earning of deceased but the claimant has produced on record documents Ex. P5 to P13 with regard to educational qualification of deceased who was B.Sc., B.Ed. and MBA (Finance) from Punjab Technical University, Jalandhar. It is argued that income of the deceased assessed by the Tribunal is grossly inadequate and needs enhancement.

Taking into consideration educational qualification of deceased, her income is assessed at Rs.12,000/- per month. The claimant shall be entitle to benefit of addition in income for future prospects @ 40%. Deduction for personal expenses would be 50%. Multiplier applied by the Tribunal is correct and affirmed. As such, loss of dependency comes to Rs.17,13,600.00 (Rs.24,48,000/- *i.e.* 12,000 x 12 x 17 + Rs.9,79,200/- (40% addition) – Rs.17,13,600/- (50% deduction)).

Under conventional heads, compensation allowed by the

Tribunal is modified to the effect that claimant shall be entitle to Rs.30,000.00 (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.***

In view of the above, total compensation comes to Rs.17,43,600/- and additional amount is Rs.11,16,600/- payable with interest @ 7.5% per annum from the date of filing of petition till realization.

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

(Rekha Mittal)
Judge

05.07.2019
Mohan Bimbra

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