In the High Court of Punjab and Haryana at Chandigarh

FAO- 4963 of 2016(O&M)
Date of Decision: 7.3.2019

Balwant Singh and another

---Appellants

versus

Rajender Kumar and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Amit Chaudhary, Advocate
for the appellants

Mr. B.S.Taunque, Advocate,
for the insurance company

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Rekha Mittal, J.

The claimants are in appeal seeking enhancement of compensation on account of death of Manjeet Singh in a motor vehicular accident that took place on 27.9.2013.

The Motor Accidents Claims Tribunal, Fatehabad (in short "the Tribunal") has awarded Rs. 2,80,000/-, detailed hereunder:-

Monthly income of the deceased	Rs. 4000/-
Deduction for personal expenses	50%
Multiplier	11
Loss of dependency	Rs. 2,64,000/-
Funeral expenses	Rs.16,000/-

Counsel for the appellants would argue that the Tribunal has assessed income of the deceased at Rs. 4000/- per month as against minimum wage available at the relevant time. The multiplier applied by the Tribunal is not in consonance with judgment of Hon'ble the Supreme Court

Smt.Sarla Verma and others vs. Delhi Transport Corporation and another 2009 ACJ 1298. Adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company, on the contrary, would argue that claim has been preferred by brothers of the deceased aged 41 and 43 years. It is further argued that there is nothing on record suggestive of the fact that claimants were dependent upon income of the deceased as such they are not entitle to compensation for loss of dependency.

Indisputably, the claim has been preferred by younger brothers of the deceased aged 41 and 43 years. There is nothing on record suggestive of the fact that claimants were dependent upon income of the deceased. However, claimants are entitle to substantial amount qua loss of estate. The deceased was 50 years old. There is no clear evidence on record with regard to avocation and income of the deceased. Taking a clue from notification issued by the State of Haryana fixing minimum wage, income of the deceased is assessed at Rs. 5350/- per month. Addition of 10% is made towards future prospects. As the deceased was 50 years of age, admissible multiplier is 13. However, deduction for personal expenses would be 60%. In this manner, compensation for loss of estate is calculated at Rs. 3,67,224/- [5350 x 12 x13= 8,34,600 + 83,460(10%)= 9,18,060 -5,50,836].

Under conventional heads, the Tribunal has allowed a sum of Rs. 16,000/- for funeral expenses and the same would be Rs. 15,000/- in the light of judgments of Hon'ble the Supreme Court **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270** and **Sebastiani Lakra and others vs. National Insurance Company Limited**

and another AIR 2018 SC 5034.

Total compensation is Rs. 3,82,224/- and the additional amount is Rs. 1,02,224/- (3,82,224 -2,80,000), payable with interest @ 7.5% per annum from the date of petition till realization to be shared by the claimants in equal ratio.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

7.3.2019
PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No