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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-5998-2015
Date of Decision: August 19, 2019

Poonam and others .....Appellants

Versus

Raj Kumar and others ......Respondents

CORAM: HON'BLE MS.JUSTICE NIRMALJIT KAUR

Present: Mr.Dinesh Arora, Advocate
for the appellants.

Mr.R.C.Gupta, Advocate
for respondent No.3-Insurance Company.

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NIRMALJIT KAUR, J. (ORAL)

The appeal is filed for enhancement of the Award dated 07.10.2014. While praying for enhancement, learned counsel for the appellant-claimants submitted that income of the deceased was admittedly ₹2,04,890/- for the assessment year but the Tribunal has taken only ₹90,000/- per annum, i.e. ₹7,500/- per month on the ground that son of the deceased has started running the same business. In case the deceased was still alive, the son would have taken up some other business or career. Therefore, determining the income as ₹7,500/- per month was not justified. Secondly, the appellant-claimants were also entitled to 10% increase towards future prospects, which they have been denied.

Learned counsel for the respondent-Insurance Company on the other hand while opposing the enhancement has pointed out and rightly so, that, the only loss was qua the management of the business as the business continued to run by the son of the deceased. Secondly, as per the judgment rendered by the Apex Court in the case of **National Insurance Company Limited vs Pranay Sethi and others**, 2017(16) SCC 680, the amount towards consortium is excessive which should have been ₹70,000/- and not ₹1,25,000/- and the same requires to be reduced.

Heard.

In case the amount towards the income is increased by a certain margin and at the same time reduced under the head 'Consortium' the Award would almost be balanced out. Hence, this Court does not deem it appropriate to either increase the income as already observed and reduce on the other hand under the head 'Consortium'.

However, there is merit in the argument that the appellant-claimants are otherwise entitled to increase of future prospects @ 10%, as per the judgment rendered in the case of **National Insurance Company Limited vs Pranay Sethi and others (supra)**, which learned counsel for the respondent-Insurance Company is not able to dispute.

Accordingly, the Award is modified to the said extent and the appellant-claimants are held entitled to the enhancement of ₹66,000/- under the head 'future prospects @ 10%'.

The enhanced amount of ₹66,000/- be paid to the appellant-claimants alongwith interest @ 6% per annum from the date of filing of the claim petition in the same terms as held by the Tribunal within two months from the date of receipt of a certified copy of this order. In case the said amount is not deposited within two months from the date of receipt of a copy of this order, the same shall be deposited alongwith interest @ 12%

from the expiry of the said two months.

Disposed of accordingly.

August 19, 2019 **(NIRMALJIT KAUR)**
meenuss **JUDGE**

1. **Whether speaking/reasoned ?** **Yes/No**
2. **Whether reportable ?** **Yes/No**