IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5084 of 2016 (O&M)
Date of decision: 09.04.2019

Satish Kumar and another ... Appellants

Versus

Surender and others ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ravinder Malik, Advocate
for the appellants.

Mr. Gaurav Gupta, Advocate for
Mr. GD Gupta, Advocate for the insurance company.

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<u>REKHA MITTAL, J. (Oral)</u>

The claimants are in appeal seeking enhancement of compensation on account of death of Sunil Kumar in a motor vehicular accident that took place on 03.12.2014.

The Tribunal awarded Rs.4,49,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.6000/-
2. Multiplier	9
3. Deduction for personal expenses	50%
4. Loss of dependency	Rs.3,24,000/-
5. Expenses on funeral	Rs.25,000/-
6. Loss of love and affection	Rs.1,00,000/-

The plea of claimants is that the deceased was doing business of sale and purchase of buffaloes and running juice shop thereby earning Rs.30,000/- per month. Counsel for the appellants has failed to point out materials on record to substantiate plea of the claimants with regard to avocation and income of the deceased. The Tribunal has assessed his income at Rs.6000/- per month by treating him as unskilled labour. Taking a clue from notification issued by the State of Haryana fixing minimum wage at the relevant time, income of the deceased is assessed at Rs.5700/- per month. Claimants shall be entitle to addition in income for future prospects @ 40%. Deduction for personal expenses applied by the Tribunal is correct and affirmed. However, as the deceased was in the age group of 21-25 years, admissible multiplier is 18. In this context, reference can be made to judgments of Hon'ble the Supreme Court **Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77**, **Munna Lal Jain and anr. vs. Vipin Kumar Sharma and ors., 2015 (3) SCC (Civil) 315** and **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**. Accordingly, loss of dependency is calculated at Rs.8,61,840/- [(5700 x 12 x 18) + (40% future prospects) – (50% deduction for personal expenses)].

Under conventional heads, compensation awarded by the Tribunal is modified to the effect that claimants shall be entitle to Rs.30,000/-, detailed hereunder:-

1. Expenses on last rites	Rs.15,000/-
2. Loss of estate	Rs.15,000/-

Total compensation is Rs.8,91,840/- and the additional amount is Rs.4,42,840/- (8,91,840 - 4,49,000), payable with interest @ 7.5% per annum from the date of petition till realization, to mother of the deceased, to be invested in fixed deposit for a period of one year.

The appeal is partly allowed in the aforesaid terms.

09.04.2019 **(REKHA MITTAL)**
ashok **JUDGE**

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