IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

232 FAO-5956-2016 (O&M)

Date of decision: 17.12.2019

SUNITA & ORS ... Appellants

Versus

ANIL & ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Shashi K. Yadav, Advocate for the appellants.
None 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 Dinesh Kumar in a motor vehicular accident that took place on 01.10.2015.

The Tribunal awarded Rs.13,39,600/-, detailed hereunder:-

Monthly income of the deceased	Rs.8200/-
Multiplier	17
Deduction for personal expenses	$1/4^{th}$
Loss of dependency	Rs.12,54,600/-
Expenses on funeral	Rs.20,000/-
Loss of estate	Rs.20,000/-
Loss of consortium	Rs.25,000/-
Non pecuniary damages	Rs.20,000/-

Counsel for the appellants would argue that Tribunal has not extended benefit of addition in income for future prospects and wrongly rejected claim for reimbursement of medical expenses to the tune of Rs.50,000/- on the basis of bill Ex.P12, proved by Suresh Kumar Thakur, Cashier, Medanata Hospital, Gurgaon PW8.

The plea of claimants is that deceased was working as Sweeper on DC rates in Municipal Corporation, Gurgaon thereby getting salary of Rs.8100/- per month. They produced certificate mark A but the original certificate was not brought on record. They did not examine a witness of Municipal Corporation to prove employment and salary of the deceased. The Tribunal has assessed income of the deceased on the basis of DC rates, meant for payment to employees out of contingency fund of the State Government. In absence of the claimants adducing clear evidence with regard to employment and income of the deceased but while 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.6000/- per month. Claimants shall be entitle to addition in income for future prospects @ 40%. Multiplier and deduction for personal expenses applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.12,85,200/- [(6000 x 12 x 17) + (40% future prospects) – (1/4th deduction for personal expenses)].

Under conventional heads, compensation allowed is modified to the effect that claimants shall be entitle to Rs.70,000/-, detailed hereunder:-

1. Loss of consortium	Rs.40,000/-
2. Loss of estate	Rs.15,000/-
3. Funeral expenses	Rs.15,000/-

The claimants are awarded Rs.50,000/- with regard to reimbursement of medical expenses, in view of testimony of witness from Medanta Hospital, Gurgaon

Total compensation is Rs.14,05,200/- and additional amount is Rs.65,600/- (14,05,200 - 13,39,600), payable with interest @ 7.5% per annum from the date of petition till realization, to widow of the deceased.

The appeal is partly allowed in the aforesaid terms.

17.12.2019 **(REKHA MITTAL)**
ashok **JUDGE**

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