IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

235 FAO No.5977 of 2016(O&M)
Date of Decision: 06.09.2019

RAJWINDER KAUR AND ORS .....Appellants

Versus

JASWINDER SINGH AND ORS .....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Sham Lal Bhalla, Advocate for the appellants.

Ms. Swati Batra, 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 Surjan Singh in a motor vehicular accident that took place on 03.06.2013.

The Tribunal awarded Rs.33,69,800-, detailed hereunder:-

Monthly income of the deceased	Rs.23,925/- (rounded off to Rs.24,000/-)
Addition in income for future prospects	30%
Multiplier	13
Deduction for personal expenses	1/3rd
Loss of dependency	Rs.32,44,800/-
Expenses on funeral	Rs.25,000/-
Loss of consortium	Rs.1,00,000/-

The deceased was Constable in Punjab Police, after his retirement from Army. The Tribunal, in para 21 of the award, has noticed that RW2 Rajinder Singh, Clerk in the office of SSP, Patiala was examined to prove that deceased was born on 30.05.1964 and as such, he was 49 years old at the time of occurrence. The claimants examined HC Pargat Singh from the office of SSP, Patiala and he deposed that in May, 2013, total salary of the deceased was Rs.30,297/- but the Tribunal has taken into consideration basic pay plus grade pay (10,710 + 3200) and DA (10,015/-) to assess loss of monthly dependency @ Rs.23,925/- rounded off to Rs.24,000/-. Perusal of the pay slip for the month of May, 2013 would reveal that in addition to pay band plus grade pay and DA, the deceased was paid CP, HRA, KMA, FMA, ration money and mobile phone. The allowances admissible to the deceased cannot be ignored for calculating monthly loss of dependency. Accordingly, income of the deceased is taken as Rs.30,297/- per month and annual income is Rs.3,63,564/-. After deducting income tax (Rs.14,787/-), the net annual income is Rs.3,48,777/-. Addition in income for future prospects allowed is correct and affirmed and so also deduction for personal expenses and multiplier. In this manner, loss of dependency is calculated at Rs.39,29,554/- [(3,48,777 x 13) + (30% future prospects) – (1/3rd deduction for personal expenses)].

So far as claim with regard to pension received by the deceased being member of the Armed Forces, the deceased was receiving pension @ Rs.12,197/- but his widow is receiving pension of Rs.19,421/- per month. When the case is examined in the light of judgment of this Court **Charanjit Singh Vs. Harish Kumar Sachdeva and others, FAO No.10228 of 2014 and other connected cases, decided on 30.01.2018**, claimants are not entitle to benefit of loss of pension drawn by the deceased.

Under conventional heads, compensation allowed by the Tribunal 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/-

Total compensation is Rs.39,99,554/- and additional amount is Rs.6,29,754/- (39,99,554 – 33,69,800), payable with interest @ 7.5% per annum from the date of petition till realization, to minor children of the deceased in equal ratio, to be invested in fixed deposit till they attain majority or for a period of three years, whichever is later.

The Tribunal has allowed interest @ 6% per annum. Claimants shall be entitle to interest @ 7.5% per annum even on the amount assessed by the Tribunal from the date of petition till realization.

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

06.09.2019 **(REKHA MITTAL)**
ashok **JUDGE**

Whether reasoned/speaking Yes/No

Whether reportable Yes/No