IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 6377 of 2016 (O&M)
Date of decision: 23.10.2019

Harpreet Singh and others ....*Appellants*

Versus

Pavittar Singh and others ....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Ms Priya Deep, Advocate
for the appellants

Mr. Pankaj Mehta, Advocate
for respondent No. 2

-.-

Rekha Mittal, J. (Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Mehar Singh in a motor vehicular accident that took place on 03.11.2014.

The Tribunal awarded Rs.2,24,028/-, detailed hereunder:-

-Monthly income of the deceased	Rs.4,000/-
-Deduction for personal expenses	1/3rd
-Multiplier	7
-Loss of dependency	Rs.2,24,028/-

Counsel for the appellants would argue that income of the deceased assessed by the Tribunal merits enhancement as he was owner of two acres of land and adequate compensation may be allowed under conventional heads.

Counsel for the insurance company, on the contrary, would argue that claim has been filed by one major son and two married daughters of the deceased, therefore, admissible deduction for personal expenses should be 50%. It is argued that as per copy of Aadhar Card, the deceased was born in the year 1943 and as such, he was more than 70 years at the time of accident.

Before adverting to submissions of counsel for the parties with regard to income of the deceased, it is appropriate to determine age of the deceased. Counsel for the appellants has not disputed that in the Aadhar card, deceased is stated to be born in 1943. The accident in question took place in November 2014 and as such, the deceased was more than 70 years at the time of accident. He was owner of two acres of land as per jamabandi Ex. P6. Taking into consideration the land holding, age of the deceased and minimum wage available at the relevant time, income of the deceased is assessed at Rs.6,000/- per month.

The claim has been filed by major son and two married daughters of the deceased. The married daughters would not be entitle to loss of dependency. In this context, reference can be made to judgment of Hon'ble Supreme Court in ***Manjuri Bera vs Oriental Insurance Company Limited (2007) 10 SCC 643.*** The son of the deceased is stated to be working as a labourer in a Company. Still, he cannot be denied compensation with regard to loss of dependency. In the given circumstances, admissible deduction for personal expenses would be 50%. As the deceased was more than 70 years at the time of accident, admissible multiplier is 5. As such, loss of dependency comes to Rs.1,80,000/-

(Rs.3,60,000/- *i.e*. 6,000 x 12 x 5 – Rs.1,80,000/- (50% deduction).

Under conventional heads, claimants shall be entitle to Rs.30,000.00 (Rs.15,000.00 each qua loss to estate and funeral expenses), 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, 2018 AIR (SC) 5034.***

There is difference of Rs.14,028/- between compensation assessed by the Court *viz-a-viz* allowed by the Tribunal. As such, the award passed by the Tribunal is kept intact.

Disposed of.

(Rekha Mittal)
Judge

23.10.2019
Mohan Bimbra

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