IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

220 FAO-7690-2015 (O&M)

Date of decision: 23.09.2019

VIDHYA DEVI & ANR ... Appellants

Versus

ANIL KUMAR & ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Manoj Chahal, Advocate for the appellants.
Mr. Gaurav Goel, Advocate for respondent No.3.
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REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Mahender Singh in a motor vehicular accident that took place on 05.07.2014.

The Tribunal awarded Rs.52,18,150/-, detailed hereunder:-

Monthly income of the deceased	Rs.52,945/-
Addition in income for future prospects	15%
Income tax	Rs.48,064/-
Multiplier	11
Deduction for personal expenses	1/3rd
Loss of dependency	Rs.50,05,572/-
Expenses on funeral	Rs.25,000/-
Loss of consortium	Rs.1,00,000/-
Medical expenses	Rs.87,578/-

Counsel for the appellants would argue that the Tribunal has allowed interest @ 6% per annum and the same merits enhancement.

Counsel representing the insurance company, on the contrary, would argue that compensation allowed under conventional heads may be restricted to Rs.70,000/- in the light of judgment of Hon'ble the Supreme Court **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270**.

The Tribunal has assessed income of the deceased at Rs.52,945/- on the basis of records produced by Satbir Singh PW4. The deceased was an income tax officer aged about 54 years as per his date of birth i.e. 10.07.1960, who died on 08.07.2014. The Tribunal has deducted liability to pay income tax after making addition of future prospects but income tax is liable to be deducted before making addition of future prospects. In this context, reference can be made to judgment of Hon'ble the Supreme Court **Pranay Sethi and others's case (supra).** The annual income of the deceased @ Rs.52,945/- is Rs.6,35,340/-. After deducting income tax (Rs.53,630/-), the net annual income is Rs.5,81,710/-. The Tribunal has rightly allowed addition in income for future prospects @ 15%. Multiplier and deduction for personal expenses applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.49,05,754/- [(5,81,710 x 11) + (15% future prospects) – (1/3rd deduction for personal expenses)].

Under conventional heads, compensation allowed by the Tribunal is modified to the extent 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/-

A sum of Rs.87,578/- towards medical expenses allowed by the Tribunal is affirmed.

Total compensation is Rs.50,63,332/- and compensation assessed by the Tribunal is reduced to the extent of Rs.1,54,818/- (52,18,150 – 50,63,332). The insurance company shall be entitle to recover the excess amount, if already paid, by filing an appropriate application before the Tribunal. However, compensation of Rs.50,63,332/- shall carry interest @ 7.5% per annum from the date of petition till realization.

The appeal stands disposed of in the aforesaid terms.

23.09.2019 **(REKHA MITTAL)**
ashok **JUDGE**

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