IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 7694 of 2015 (O&M)
Date of decision: 29.03.2019

Vijayanti ....*Appellant*

Versus

Krishan Kumar and others ....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Gulshan Nandwani, Advocate
for the appellant

Mr. Amit K. Goyal,Advocate and
Mr. H S Gahroo, 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 Manoj in a motor vehicular accident that took place on 14.01.2013.

The Tribunal has awarded Rs.5,34,000/-, detailed hereunder:-

-Monthly income of deceased	Rs.6,000/-
-Deduction for personal expenses	50%
-Multiplier	14
-Loss of dependency	Rs.5,04,000/-
-Funeral expenses	Rs.5,000/-
-Loss of love and affection and consortium to claimant No. 1	Rs.25,000/-

The plea of claimants is that the deceased was working as Helper in N.T.N Company thereby earning Rs.6,200/- per month. Ashok

Kumar Supervisor (PW2) from the aforesaid Company was examined and he produced personal file, attendence register and salary records of Helper Manoj. He would depose that Manoj joined service on 24.08.2011 and was paid salary of Rs.6,348/- for the month of December 2012. Salary sheets for the months of December 2012 and January 2013 are Ex. P2 and P3. The witness also produced documents Ex.P4 to P6. The Tribunal has not considered testimony of Ashok Kumar, Supervisor (PW2) but assessed income of the deceased at Rs.6,000/- by holding that even labourer earns Rs.6,000/- per month as minimum wage.

Taking into consideration the materials on record, in the light of testimony of Ashok Kumar, Supervisor, income of the deceased is assessed at Rs.6,350/- per month. The claimants shall be entitle to addition in income for future prospects at the rate of 40%. The deceased was 21 years old, therefore, admissible multiplier would be 18. Deduction for personal and living expenses allowed by the Tribunal is correct and affirmed. As such, loss of dependency is calculated at Rs.9,60,120/- (Rs.13,71,600/- *i.e.* 6350 x 12 x 18 + Rs.5,48,640/- (40% addition) – Rs.9,60,120/-(50% deduction))

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that 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 v. Pranay Sethi and others, 2017 SCC 1270*** and ***Sebastiani Lakra and others vs. National Insurance Company Limited and another, 2018 AIR (SC) 5034.***

Total compensation is Rs.9,90,120/- and additional amount is Rs.4,56,120/- (Rs.9,90,120.00 – Rs.5,34,000.00) payable with interest @ 7.5% per annum from the date of petition till realization to mother of deceased, to be invested in fixed deposit for a period of three years.

In view of the above, the appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

29.03.2019
Mohan Bimbra

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