IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

227 FAO No.7872 of 2015 (O&M)

Date of decision: 16.01.2019

MAHENDER SINGH AND ANR ... Appellants

Versus

AAMEEN AND ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Pawan K. Hooda, Advocate for the appellants.
Mr. Rajneesh Malhotra, Advocate and
Ms. Monika Jangra, Advocate for the insurance company.

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REKHA MITTAL, J. (Oral)

CM No.24813-CII of 2015

Heard.

Allowed as prayed for. Delay of 96 days in filing the appeal stands condoned.

Main Case

The claimants are in appeal seeking enhancement of compensation on account of death of their only son Ghanshyam in a motor vehicular accident that took place on 07.10.2013.

The Tribunal has awarded compensation of Rs.12,28,399/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.7292/- (rounded of to Rs.7300)
2. Multiplier	18
3. Deduction for personal expenses	50%
4. Loss of dependency	Rs.7,88,400/-
5. Expenses on funeral	Rs.20,000/-
6. Loss of estate	Rs.20,000/-
7. Non pecuniary damages	Rs.20,000/-
8. Medical expenses	Rs.3,79,999/-

The plea of claimants is that deceased was working as tailor at the shop of Chand Tailors, Sohna at salary of Rs.12,000/- per month and was also earning Rs.5000/- from part time job. The claimants did not examine a witness from Chand Tailors to prove avocation and income of the deceased. There is only bald statement of one of the claimants with regard to avocation and income of the deceased. In the given circumstances, there is no alternative except to assess income of the deceased by taking clue from notification issued by the State of Haryana whereby minimum wages were fixed at the relevant time. Accordingly, 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.9,07,200/- [(6000 x 12 x 18) + (40% future prospects) – (50% deduction for personal expenses)]. Compensation allowed by the Tribunal under conventional heads and so also with regard to medical expenses is affirmed.

Total compensation is Rs.13,47,199/- and the additional amount is Rs.1,18,800/- (13,47,199 - 12,28,399), payable with interest @ 7.5% per annum from the date of petition till realization, to mother of the deceased, to be invested in fixed deposit for a period of two years.

The appeal is partly allowed in the aforesaid terms.

16.01.2019 **(REKHA MITTAL)**
ashok **JUDGE**

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