IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 8419 of 2015 (O&M)
Date of decision: 27.03.2019

Balvir Kaur and others ....*Appellants*

Versus

Surender alias Surinder Singh and others ....*Respondent*

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Suneel Ranga, Advocate
for the appellants

Mr. Paul S Saini,Advocate
for the respondent-insurance company

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Rekha Mittal, J. (Oral)

CM 26556 CII of 2015

Prayer in this application is for condoning delay of 28 days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit and arguments advanced, the application is allowed and delay of 28 days in filing the appeal stands condoned.

Main case

The claimants are in appeal seeking enhancement of compensation on account of death of Dhiriya in a motor vehicular accident that took place on 15.06.2014.

The Tribunal has awarded Rs.9,51,200/-, detailed hereunder:-

-Monthly income of the deceased Rs.28,600/-

-Deduction for personal expenses	50%
-Split multiplier	9 (2+7)
-Loss of consortium	Rs.10,000/-
-Funeral expenses	Rs.10,000/-

The deceased was working as Sweeper in Municipal Council, Patran at salary of Rs.28,600/- per month, drawn in May, 2014. The annual salary comes to Rs.3,43,200/-. After deducting income tax *i.e.* Rs.9,320/-, net annual salary comes to Rs.3,33,880/- (3,43,200-9,320). The claimants shall be entitle to addition in income for future prospects @ 15%.

The deceased was born on 01.07.1956 and died on 15.06.2014 and accordingly, he was slightly less than 58 years of age at the time of occurrence and was to retire at the age of 60 years. The Tribunal has applied split multiplier for computing loss of dependency and income of the deceased has been assessed at Rs.7,000/- per month for applying multiplier of 7. The split multiplier applied by the Tribunal cannot be allowed to sustain in the light of judgment of this Court ***United India Insurance Company Limited vs. Saroj and others*** (FAO 2931 of 2016 and connected case, decided on 07.09.2017).

The Tribunal, in para 20 of the award has held that except Balvir Kaur, other claimants cannot be held to be dependents upon the deceased as the sons and daughter of the deceased are married. Even if widow of the deceased is the only dependent, admissible deduction for personal and living expenses of the deceased would be 1/3rd. In this context reference can be made to judgment of Madhya Pradesh High Court ***Anurag Jain and others Vs. Ramveer Singh and others, 2007(4) TAC 279*** and of Karnataka High Court ***Ningappa Ramanna Kori and another Vs. Tamil***

Nadu State Transport (Madurai) Ltd., 2016 AAC 1629. Reference can also be made to judgment of this Court ***Pawan Kumar and others Vs. Ramesh Kumar and others, 2016(1) Law Herald 758***.

In view of the above, loss of dependency is calculated at Rs.23,03,772/- (Rs.29,74,599/- i.e. Rs.3,33,880 x 9 + Rs.4,50,738/- (15% addition) – Rs.11,51,886/- (1/3rd deduction).

Under conventional heads, the claimants shall be entitle to Rs.70,000.00 (Rs.40,000.00 for loss of consortium, Rs.15,000.00 each qua loss to estate and funeral expenses), admissible 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.23,73,772/- and additional amount is Rs.14,22,572/- (Rs.23,73,772/- – Rs.9,51,200/-) payable with interest @ 7.5% per annum to widow 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

27.03.2019
Mohan Bimbra

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