In the High Court of Punjab and Haryana at Chandigarh

Date of Decision: 25.2.2019

FAO 8646 of 2015

Smt. Gyarsi and another

---Appellants

versus

Gulab Singh and others

---Respondents

FAO 299 of 2016

Smt. Mukesh and others

---Appellants

versus

Gulab Singh and others

---Respondents

FAO -300 of 2016

Smt. Urmila and others

---Appellants

versus

Gulab Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Lokesh Sharma, Advocate for
Mr. Aditya Sanghi, Advocate
for the appellants in all the appeals

Ms. Sheenu Sura,Advocate,
for the insurance company in all the appeals

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Rekha Mittal, J.

This order will dispose of FAO Nos. 8646 of 2015, 299 and

300 of 2016 as these have emerged out of the same award dated 14.8.2015 passed by the Motor Accidents Claims Tribunal, Narnaul (in short "the Tribunal") whereby compensation has been assessed on account of death of Rattan Lal, Hawa Singh and Shimbhu Dayal in a motor vehicular accident that took place on 28.2.2014.

FAO-8646 of 2015

The Tribunal has awarded compensation of Rs.5,04,600/-, detailed hereunder:-

Monthly income of the deceased	Rs. 4800/-
Deduction for personal expenses	50%
Multiplier	17
Loss of dependency	Rs. 4,89,600/-
Transportation and last rites expenses	Rs. 15,000/-

The Tribunal has assessed income of the deceased at Rs. 4800/- per month but without assigning any reason or basis thereof. Plea of the claimants is that deceased was doing the work of making stone sculptures at Jaipur. The Tribunal has noticed that claimants failed to adduce sufficient evidence to substantiate their plea in this regard. Taking a clue from notification issued by the State of Haryana fixing minimum wage at the relevant time, income of the deceased is assessed at Rs. 5600/- per month. Claimants shall be entitle to increase in income for future prospects @ 40%. Deduction for personal expenses and multiplier applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs. 7,99,680/- [5600 x12 x17 =11,42,400 + 4,56,960(40%) =15,99,360-7,99,680(50%)].

Under conventional heads, compensation allowed by the

Tribunal is modified to the effect that claimants shall be entitle to Rs. 30,000/- 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 AIR 2018 SC 5034,** detailed hereunder:-

Expenses on funeral Rs. 15,000/-

Loss of estate Rs. 15,000/-

Total compensation is Rs. 8,29,680 and the additional amount is Rs.3,25,080/- (8,29,680-5,04,600/-), payable with interest @ 7.5% per annum from the date of petition till realization, to mother of the deceased.

The appeal is partly allowed in the aforesaid terms.

FAO- 299 of 2016

The Tribunal has awarded compensation of Rs.7,74,400/-, detailed hereunder:-

Monthly income of the deceased	Rs. 4800/-
Deduction for personal expenses	1/4th
Multiplier	17
Loss of dependency	Rs. 7,34,400/-
Transportation and last rites expenses	Rs. 15,000/-
Loss of consortium	Rs. 25,000/-

In view of discussion made hereinbefore while deciding FAO No. 8646 of 2015, income of the deceased is assessed at Rs. 5600/- per month. Claimants shall be entitle to increase in income for future prospects @ 40%. Deduction for personal expenses and multiplier applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.11,99,520/- [5600 x 12 x 17= 11,42,400 + 4,56,960(40%)

=15,99,360-3,99,840(1/4th)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs. 70,000/- in the light of judgments of Hon'ble the Supreme Court **Pranay Sethi and others' case (supra)** and **Sebastiani Lakra and others' case (supra),** detailed hereunder:-

Loss of consortium	Rs. 40,000/-
Expenses on funeral	Rs. 15,000/-
Loss of estate	Rs. 15,000/-

Total compensation is Rs. 12,69,520/- and the additional amount is Rs.4,95,120/- (12,69,520- 7,74,400), payable with interest @ 7.5% per annum from the date of petition till realization, to be shared by the minor children of the deceased in equal ratio, to be invested in fixed deposit till they attain the age of majority or for a period of three years, whichever is later. Interest accruing on the FDRs shall be payable to their mother for meeting their expenses.

The appeal is partly allowed in the aforesaid terms.

FAO 300 of 2016

The Tribunal has awarded compensation of Rs.5,77,600/-, detailed hereunder:-

Monthly income of the deceased	Rs. 4800/-
Deduction for personal expenses	1/3rd
Multiplier	14
Loss of dependency	Rs. 5,37,600/-
Transportation and last rites expenses	Rs. 15,000/-
Loss of consortium	Rs. 25,000/-

In view of discussion made hereinbefore while deciding FAO No. 8646 of 2015, income of the deceased is assessed at Rs. 5600/- per month. Claimants shall be entitle to increase in income for future prospects @ 25%. Deduction for personal expenses and multiplier applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs. 7,84,000 [5600 x 12 x 14= 9,40,800+2,35,200 (25%)= 11,76,000-3,92,000(1/3rd)]

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs. 70,000/- in the light of judgments of Hon'ble the Supreme Court **Pranay Sethi and others' case (supra)** and **Sebastiani Lakra and others' case (supra),** detailed hereunder:-

Loss of consortium	Rs. 40,000/-
Expenses on funeral	Rs. 15,000/-
Loss of estate	Rs. 15,000/-

Total compensation is Rs. 8,54,000/- and the additional amount is Rs.2,76,400/-(8,54,000-5,77,600), payable with interest @ 7.5% per annum from the date of petition till realization, to widow of the deceased.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

25.2.2019
PARAMJIT

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