IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

239 FAO-8097-2016 (O&M)

Date of decision: 12.09.2019

POONAM RANI AND ORS ... Appellants

Versus

NARESH AND ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Naveen S. Bhardwaj, Advocate for the appellants.
Mr. Rajbir Singh, Advocate for the insurance company.

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REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Vijender in a motor vehicular accident that took place in the night of 03.04.2013.

The Tribunal awarded Rs.9,36,200/-, detailed hereunder:-

Monthly income of the deceased	Rs.6000/-
Addition in income for future prospects	30%
Multiplier	13
Deduction for personal expenses	1/3rd
Loss of dependency	Rs.8,11,200/-
Expenses on funeral	Rs.25,000/-
Loss of consortium	Rs.1,00,000/-

The plea of claimants is that the deceased was running a chemist shop thereby earning Rs.20,000/- per month. To prove income of the deceased, they examined Parmod Kumar PW3, Vinay Arora PW4 and Jitender Singh PW6, proprietors of Pavit Medical Agency, Urvi Pharma and Hemant Medicine Traders, respectively who proved account statement, bills and credit notes Exs.P2 to P9 and Exs.P15 to P143 issued with regard to purchase of medicines from their agency by Sai Pharma, proprietorship of deceased Vijender. Drug licence Ex.P12, copy of matriculation certificate Ex.P14 and certificate regarding Diploma in Commercial Practice and Stenography Ex.P148 were produced. The Tribunal has assessed income of the deceased at Rs.6000/- per month by holding that no income tax return or any other cogent and convincing evidence regarding exact monthly income of the deceased has been produced by the claimants. However, the Tribunal has not rejected testimonies of the witnesses examined by the claimants to prove purchase made by Sai Pharma, a proprietorship concern of deceased Vijender, therefore, it has been established that deceased was running a chemist shop under the name and style Sai Pharma. At the same time, claimants failed to produce clear and cogent evidence with regard to income of the deceased from the said concern as they neither produced accounts of the said concern nor income tax return, if any, filed by the deceased. Taking into consideration the minimum wage of a skilled worker at the relevant time coupled with that deceased was running the business of chemist shop, income of the deceased is assessed at Rs.7000/- per month. Claimants shall be entitle to addition in income for future prospects @ 25%. Multiplier and deduction for personal expenses applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.9,10,000/- [(7000 x 12 x 13) + (25% future prospects) – (1/3rd deduction for personal expenses)].

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

Total compensation is Rs.9,80,000/- and additional amount is Rs.43,800/- (9,80,000 - 9,36,200), payable with interest @ 7.5% per annum from the date of petition till realization, to minor children of the deceased, to be invested in fixed deposit till they attain majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

12.09.2019
ashok

(REKHA MITTAL)
JUDGE

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