IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

234 FAO-8152-2016 (O&M)

Date of decision: 18.12.2019

RAJ KUMAR AND ANOTHER ... Appellants

Versus

RAJESH & ANOTHER ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Vishal Aggarwal, Advocate for the appellants.
Mr. Sandeep Suri, 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 Sanjay in a motor vehicular accident that took place on 20.02.2015.

Counsel for the appellants would argue that the Tribunal has awarded Rs.50,000/-, may be, under No Fault Liability but appellants should be allowed compensation qua loss of dependency, if not so, a substantial amount with regard to loss to estate.

Counsel representing the insurance company, on the contrary, has supported award of the Tribunal allowing compensation of Rs.50,000/-.

Counsel for the appellants, in response to a query, would fairly inform that there is no material on record to prove that appellants, adult brothers of the deceased, were dependent on his income. However, even if the appellants were not dependent upon their brother, they can maintain a claim and are entitle to substantial amount with regard to loss to estate. In this context, reference can be made to judgments of this Court **Parkash Chand and ors. Vs. Pal Singh and ors., 1985 AIR (Punjab) 329, Miss Nandini Minor and others vs. Amrik Singh and others, FAO No. 450 of 1994, decided on 27.01.2011** and **Abdul Gani Naik and others vs. Shyam Lal and others, F.A.O. No.3245 of 2009, decided on 31.10.2014.**

The plea of claimants is that deceased was working as driver on truck bearing No.HR-63-B-2637 thereby earning Rs.10,000/- per month. They examined Devinder PW1 to prove avocation and income of the deceased. Counsel for the appellants has failed to point out any sufficient materials on record to prove income of the deceased. Taking a clue from notification issued by the State of Haryana fixing minimum wage of a skilled worker at the relevant time, income of the deceased is assessed at Rs.6400/- per month. The deceased was 39 years old. Addition for future prospects would be 40% and admissible multiplier to be 15. Since the appellants are entitle only to loss to estate, deduction for personal expenses would be 60%. In this manner, loss to estate is calculated at Rs.6,45,120/- [(6400 x 12 x 15) + (40% future prospects) – (60% deduction for personal expenses)].

Under conventional heads, the appellants shall be entitle to Rs.15,000/- for funeral expenses.

Total compensation is Rs.6,60,120/- and additional amount is Rs.6,10,120/- (6,60,120 – 50,000), payable to the appellants in equal ratio and the same shall carry interest @ 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

18.12.2019 **(REKHA MITTAL)**
ashok **JUDGE**

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