In the High Court of Punjab and Haryana at Chandigarh

FAO No. 6481 of 2017 (O&M)
Date of Decision: 4.10.2019

Poonam and others

---Appellants

versus

Mohinder Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Shakti Mehta, Advocate
for Mr. Vikram Bali, Advocate
for the appellants

***

Rekha Mittal, J.

CM No.20631-CII of 2017

Heard.

Allowed as prayed for. Delay of 60 days in filing the appeal stands condoned.

Disposed of accordingly.

Main case

Heard.

Notice of motion.

Mr. Rajneesh Malhotra, Advocate, accepts notice on behalf of the insurance company.

The claimants are in appeal seeking enhancement of compensation on account of death of Dharminder in a motor vehicular accident that took place on 1.12.2014.

The Motor Accidents Claims Tribunal, Panchkula (in short "the Tribunal") awarded Rs.19,54,520/-, detailed hereunder:-

Monthly income of the deceased	Rs. 8470/-
Addition in income for future prospects	50%
Deduction for personal expenses	1/5th
Multiplier	15
Loss of dependency	Rs. 18,29,520/-
Loss of love and affection, consortium and funeral expenses	Rs. 1,25,000/-

The sole submission made by counsel for the appellants is that income of deceased assessed by the Tribunal needs modification on the basis of income tax returns Exs. PW2/1 and PW2/2. It is further argued that the Tribunal has wrongly held that source of income of deceased is not mentioned.

Counsel representing the insurance company, on the contrary, has supported assessment of income of deceased but would argue that addition in income for future prospects should be 40% and compensation allowed under conventional heads may be restricted to Rs. 70,000/- in the light of judgment of Hon'ble the Supreme Court **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270**.

Perusal of documents Exs. PW2/1 and PW2/2 proved by an official from the department of income tax reveals that as per income tax return Ex. PW2/2 filed by the deceased himself his gross income from profit and gains from business other than speculative business is Rs. 2,25,630/- The second income tax return Ex. PW2/1 was filed after death of Dharminder. The reasoning assigned by the Tribunal to ignore income reflected in income tax return Ex. PW2/2 is not correct, thus, cannot sustain. Taking into consideration income of the deceased in the income tax return for the assessment year 2013-14 Ex. PW2/2, annual income of deceased is assessed at Rs. 2,25,630/-. 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. 37,90,584/-[(2,25,630 x 15) + (40% thereof) – (1/5th)].

Under conventional heads, compensation allowed is modified to the effect that claimants shall be entitle to Rs. 70,000/-, detailed hereunder:-

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

Total compensation is Rs. 38,60,584/- and the additional amount is Rs. 19,06,064/-, payable with interest @ 7.5% per annum from the date of petition till realization to children of deceased in the ratio 10:15:20:25:30, to be invested in fixed deposit till they attain majority or for a period of three years, whichever is later. Interest accruing on the FDRs shall be paid to mother for meeting their expenses.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

4.10.2019
PARAMJIT

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