IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

250 FAO-711-2017 (O&M)

Date of decision: 11.07.2019

GEETA AND OTHERS ... Appellants

Versus

SORAB KHAN AND OTHERS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ashish Gupta, Advocate for the appellants.
None 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 Gyani in a motor vehicular accident that took place on 17.03.2015.

The Tribunal awarded Rs.13,78,800/-, detailed hereunder:-

Monthly income of the deceased	Rs.8000
Multiplier	16
Deduction for personal expenses	$1/5^{th}$
Loss of dependency	Rs.12,28,800/-
Transportation and last rites	Rs.20,000/-
Loss of consortium	Rs.1,00,000/-
Mental pain and agony	Rs.30,000/-

Counsel for the appellants would argue that claimants may be allowed addition in income for future prospects @ 40%. The deceased was 25 years old as per the age recorded in the postmortem report. The Tribunal has wrongly applied multiplier of 16.

The plea of claimants is that the deceased was working as helper with Vashu Dev and sons, Vegetable and Fruit Vendors, Sabji Mandi, Palwal at salary of Rs.8500/- per month. They examined Rajesh Kumar PW4 to substantiate their plea in this regard. The Tribunal, in para 18 of the award, has noticed that Rajesh Kumar neither brought any document regarding registration of his firm nor he had maintained salary record and attendance register etc. However, Tribunal assessed his income at Rs.8000/- per month by taking into consideration the minimum wage. Perusal of notification issued by State of Haryana fixing minimum wage w.e.f 01.01.2015, wage for unskilled labour was Rs.5812.75 per month.

Accordingly, income of the deceased is assessed at Rs.6000/- per month. Claimants shall be entitle to addition in income for future prospects @ 40%. The claim has been preferred by six persons including parents of the deceased. The admissible deduction for personal expenses would be $1/4^{th}$. The deceased was stated to be 26 years old by the claimants. The eldest child of the deceased is aged 8 years. Accordingly, age of the deceased is assessed in the bracket of 26 to 30 years and multiplier of 17 is applied. In this manner, loss of dependency is calculated at Rs.12,85,200/- [(6000 x 12 x 17) + (40% future prospects) – ($1/4^{th}$ 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.13,55,200/-. The Tribunal has awarded Rs.23,600/- more, as such, assessment made by the Tribunal is kept intact.

The appeal is disposed of in the aforesaid terms.

11.07.2019 **(REKHA MITTAL)**
ashok **JUDGE**

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