IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

238 FAO-7583-2017 (O&M)

Date of decision: 16.10.2019

PUSHPA DEVI AND ANOTHER ... Appellants

Versus

PAWAN KUMAR AND ANOTHER ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : None for the appellants.
Mr. Rahul Pathania, Advocate for
Mr. RC Kapoor, 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 Joginder Pal in a motor vehicular accident that took place on 26.03.2016.

The Tribunal awarded Rs.9,56,500/-, detailed hereunder:-

Monthly income of the deceased	Rs.6000/-
Multiplier	18
Deduction for personal expenses	50%
Loss of dependency	Rs.6,48,000/-
Expenses on funeral	Rs.25,000/-
Medical expenses	Rs.83,500/-

The plea of claimants is that deceased was working as Administrator-cum-Manager with M/s Vishal Stone Crusher at salary of Rs.14,750/- per month. The claimants examined Vishal Kumar PW2 partner of M/s Vishal Stone Crusher to prove employment and income of the deceased. The Tribunal refused to rely upon testimony of Vishal Kumar as he had not produced partnership deed, registration of the stone crusher, any accounts regarding payment of salary to the deceased or payment of salary being not shown in income tax return. Taking into consideration the facts elicited in cross examination of Vishal Kumar PW2, I do not find any reason to interfere in findings of the Tribunal refusing to assess income of the deceased on the basis of testimony of Vishal Kumar. Taking a clue from notification issued by the State of Punjab fixing minimum wage at the relevant time, income of the deceased is assessed at Rs.7300/- per month. Claimants shall be entitle to addition in income for future prospects @ 40%.

Multiplier and deduction for personal expenses applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.11,03,760/- [(7300 x 12 x 18) + (40% future prospects) – (50% deduction for personal expenses)].

A sum of Rs.83,500/- towards medical expenses allowed by the Tribunal is affirmed.

Under conventional heads, compensation awarded is modified to the effect that claimants shall be entitle to Rs.30,000/-, detailed hereunder:-

1. Expenses on last rites	Rs.15,000/-
2. Loss of estate	Rs.15,000/-

Total compensation is Rs.12,17,260/- and additional amount is Rs.2,60,760/- (12,17,260 - 9,56,500), payable with interest @ 7.5% per annum from the date of petition till realization, to mother of the deceased to be invested in fixed deposit for a period of two years.

The appeal is partly allowed in the aforesaid terms.

(REKHA MITTAL)
JUDGE

16.10.2019
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