263 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.7695 of 2017 (O&M)
Date of Decision: 26.08.2019

Reshma and others

.....Appellants

Versus

Kuldeep Singh @ Nikka and others

........Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Manish Kumar Singla, Advocate
for the appellants.

Ms. Vandana Malhotra, Advocate
for respondent No.3.- Insurance Company.

NIRMALJIT KAUR, J. (ORAL)

CM-25264-CII-2017

For the reasons mentioned in the application, the same is allowed and the delay of 17 days in filing of the appeal is condoned.

Main Case

The present appeal has been filed for enhancement of compensation as awarded by the Motor Accident Claims Tribunal, Fatehgarh Sahib (for short, the Tribunal), vide award dated 24.05.2017.

While praying for allowing the appeal, learned counsel for the appellants submitted that the income of the deceased has been taken by the Tribunal is on the lower side. Admittedly, for the year 2014-15 his income was ₹1,15,200/-, which amounts to ₹9600/- per month, but the Tribunal has wrongly taken at ₹9000/- per month. Secondly, as per the income tax return placed on record, the deceased was 38 years of age on the date of accident, whereas, the Tribunal has taken it to be 43 years. Hence, the multiplier should have been applied 15 instead of 14. It is further contended that the deduction should have been made 1/4th instead of 1/3rd as there are 7 claimants.

Learned counsel for respondent No.3/insurance company while opposing the claim of the appellants submitted that the income was falling every year and therefore, the income in fact being taken as ₹9,000/- per month is on the higher side but is not able to dispute with respect to the age of the deceased, hence, multiplier of 15 should have been applied instead of 14. Learned counsel for the insurance company is also not able to dispute with respect to the deduction made by the Tribunal, which should have been 1/4th instead of 1/3rd. It is further submitted that the compensation of ₹1,25,000/- awarded by the Tribunal under the conventional heads is on the higher side, whereas, it should have been ₹70,000/- as per the judgment rendered by Hon'ble the Apex Court in the case of National Insurance Company Ltd. versus Pranay Sethi and others, (2017) 16 SCC 680.

Taking into account that the income of the deceased was ₹1,15,200/- in the relevant year, the income of the deceased should have been fairly assessed as ₹9600/- per month especially when he is not liable for deduction of the income tax as admitted. Further, in view of the admitted position qua the multiplier and deduction, the deduction be now made as 1/4th instead of 1/3rd and multiplier be applied as 15 instead of 14 as per the case of Pranay Sethi (supra). However, there is merit in the argument of learned counsel for the insurance company that the amount under the conventional heads should have been granted as ₹70,000/- instead of ₹1,25,000/-.

In view of the above, the compensation is now re-assessed as as per the calculation provided under:-

Sr. No.	Head	Amount assessed
1	Income	₹9,600/- per month (9600 x 12 = 115200 per annum)
2	Deduction	$1/4^{th}$ 1/4 of 115200 = ₹28800/- (115200 – 28800 = ₹86400/-
3	Multiplier	15
4	Compensation awarded	86400 x 15 =12,96,000/-
5	Conventional Heads	₹70000/-
6	Total	₹13,66,000/-
7	Compensation awarded by the Tribunal	₹11,33,000/-
8	Differences	₹1366000 – 1133000 = ₹233000/-

Thus, the enhanced compensation of ₹2,33,000/- be paid to the appellants within two months from today alongwith 6% interest per annum from the date of filing of claim petition. In case the said amount is not paid within two months, the same shall be paid thereafter alongwith 12% interest from the expiry of the period of two months.

The appeal is disposed of accordingly.

(NIRMALJIT KAUR)
JUDGE

26.08.2019
sandeep

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No