IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO 8364 of 2017 (O&M)
Date of decision: 28.05.2019

Suman Rani and others ....*Appellants*

Versus

Rakesh Kumar and others ....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Dheeraj Narula, Advocate
for the appellants

Mr. Sanjiv Pabbi, 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 Gurmukh Singh in a motor vehicular accident that took place on 07.09.2016.

The Tribunal awarded Rs.9,81,000/-, detailed hereunder:-

-Monthly income of the deceased	Rs.6,000/-
-Deduction for personal expenses	1/4th
-Multiplier	14
-Loss of dependency	Rs.7,56,000/-
-Loss of consortium	Rs.1,00,000/-
-Transportation and funeral expenses	Rs.25,000/-
-Loss of love and affection	Rs.1,00,000/-

As per case set up by the claimants, the deceased was a trained Auto mechanic and running auto workshop at Ellenabad. In addition, he was driving auto rickshaw, thereby earning Rs.20,000/- per month. Counsel for the appellants would urge that the deceased sustained injuries when he was driving auto rickshaw bearing No. HR-39-2886.

Taking a clue from minimum wage available at the relevant time, income of the deceased is assessed at Rs.7,500/- per month. As per Aadhaar Card, deceased was born on 01.01.1978 and as such he was less than 40 years of age at the time of occurrence. Accordingly, admissible multiplier would be 15 and addition in income for future prospects at the rate of 40%. Deduction for personal expenses allowed by the Tribunal is correct and affirmed. Accordingly, loss of dependency is calculated at Rs.14,17,500/- (Rs.13,50,000/- *i.e.* 7,500 x 12 x 15 + Rs.5,40,000 (40% addition) - Rs.4,72,500/- (1/4th deduction)).

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs.70,000.00 (Rs.40,000.00 for loss of consortium, Rs.15,000.00 each qua loss to estate and funeral expenses), in the light of judgments of Hon'ble the Supreme Court ***National Insurance Company Limited v. Pranay Sethi and others, 2017 SCC 1270*** and ***Sebastiani Lakra and others vs. National Insurance Company Limited and another, 2018 AIR (SC) 5034.***

Total compensation is Rs.14,87,500/- and additional amount is Rs.5,06,500/- payable with interest at the rate of 7.5% per annum from the date of petition till realization to claimants No. 1 to 4 in equal ratio. The amount falling to share of minors shall be invested in FDR till they attain the age of majority or for a period of three years, whichever is later.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

28.05.2019
Mohan Bimbra

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