IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.8713 of 2017 (O&M)
Date of Decision :01.03.2019

Naveen Devi and others. **....Appellants**

versus

Mohd. Furkan and others. **...Respondents**

CORAM : HON'BLE MR. JUSTICE B.S. WALIA

Present: Mr. Ram Pal Verma, Advocate for the appellants.

Mr. Sanjeev Kumar Arora, Advocate for respondent No.3-Insurance Company.

***

B.S. WALIA, JUDGE (ORAL)

CM No.28223-CII of 2017

For the reasons as are mentioned in the application, delay of 6 days in filing the appeal is condoned. CM stands disposed of.

FAO No.8713 of 2017

1. Appeal has been filed by the widow, two minor children and mother of Mukesh Kumar, who died in a motor vehicular accident on 04.07.2016, seeking enhancement of compensation of ₹9,60,200/- by enhancing the income of the deceased wrongly assessed by the Tribunal as also by awarding future prospects.

2. Learned counsel for the respondent-Insurance Company does not oppose the taking into account of 40 % of the established income of the deceased towards future prospects while computing compensation but contends that as against the income of ₹5800/- per month assessed by the Tribunal, the appellants, at best, are entitled to increase of ₹12.75 paise per month on account of minimum wages payable to an unskilled labourer in the State of Haryana

PUSHPINDER SAINI
2019.06.11 16:46
I attest to the accuracy and
integrity of this document

during the relevant time in view of notification issued under the Minimum Wages Act being ₹5212.75.

3. I have considered the submissions of learned counsel for the parties.

4. As per paragraph No.61(iv) of the decision of Hon'ble the Supreme Court in **National Insurance Company Limited vs. Pranay Sethi and others-2017(4) RCR (Civil) 1009,** an addition of 40% of the established income of the deceased minus the tax component has to be made towards future prospects while computing the compensation payable where the deceased was less than 40 years of age while as per paragraph No.61(viii) of aforementioned decision, a sum of ₹15,000/- is payable on account of funeral expenses, and like amount on account of loss of estate besides ₹40,000/- on account of loss of spousal consortium.

Since the deceased was 33 years of age and was self employed, 40% of the established income of the deceased minus the tax component is liable to be taken into account while computing the compensation payable. ₹1,00,000/- awarded on account of loss of consortium and ₹25,000/- on account of funeral expenses is scaled down to ₹40,000/- and ₹15,000/- respectively while ₹15,000/- is awarded on account of loss of estate. There is no dispute that the minimum wages in the State of Haryana during the relevant period for an unskilled labourer were ₹5812.75. Therefore, income of the deceased is taken as ₹5813/- per month.

5. Accordingly, in the light of the position as noted above, the appellants are held entitled to the following compensation:

Sr. No.	**Head**	**Amount assessed by Tribunal in ₹**	**Amount assessed by this Court in ₹**
1	Monthly Income	5800/-	5813/-
2	Future	Nil	40% of 5813/-=2325.20

PUSHPINDER SAINI
2019.06.11 16:46
I attest to the accuracy and
integrity of this document

	prospects		rounded off 2325/- 5813+2325=8138/-
3	Deduction towards personal expenses of deceased.	1/4th of 5800/- =1450/-	1/4th of 8138/- =2034.5 rounded off 2035/-
4	Multiplier applied	16	16
5	Compensation awarded	4350x12x16=8,35,200/-	6103x12x16=11,71,776/-
6	Loss of consortium	1,00,000/-	40,000/-
7	Funeral expenses	25,000/-	15,000/-
8	Loss of estate	Nil	15,000/-
9	Total	9,60,200/-	12,41,776/-

6. Accordingly, in the light of the position as noted above, as against compensation of ₹9,60,200/- awarded by the learned Tribunal, Jhajjar, the appellants are held entitled to award of compensation of ₹12,41,776/- along with interest @ 7.5% per annum on the enhanced amount with effect from the date of claim petition till date of payment less amount, if any, already paid.

7. Needless to mention, tax liability, if any, qua future prospects shall be deducted by the Insurance Company in accordance with the decision in **Pranay Sethi's** case (supra). Besides, apportionment of compensation amongst the appellants shall be in accordance with the ratio stipulated by the Tribunal after first making payment on account of loss of spousal consortium to the widow of the deceased.

8. Accordingly, appeal is allowed. Award dated 18.07.2017 passed by the learned Tribunal, Jhajjar is modified to the extent as noted above.

(B.S. WALIA)
JUDGE

March 01, 2019
ps

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

PUSHPINDER SAINI
2019.06.11 16:46
I attest to the accuracy and
integrity of this document