218 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-555-2013 (O&M)
Date of Decision: 29.10.2019

Maddi @ Umed Singh and others

.....Appellants

Versus

Subreta Kumar Fadikar and another ....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Ashit Malik, Advocate, for the appellants.
Mr. Udit Garg, Advocate, for the respondents.

NIRMALJIT KAUR, J. (ORAL)

CM-3820-CII-2013

For the reasons mentioned in the application, the delay of 729 days in filing of the appeal is condoned. However, the applicants will not be entitled to the interest for the period of 729 days in case of enhancement.

CM stands disposed of.

Main appeal

While praying for setting aside the award dated 4.3.2010, learned counsel for the appellants submitted that the income assessed is on the lower side, whereas, he was working as a driver and his income was ₹ 15,000/- per month. Similarly, future prospects should have been granted @ 40%, whereas, nothing has been granted. He further submitted that deduction is on the higher side. There are five claimants, whereas, 1/3rd deduction has been applied. Multiplier of 17 should be applied instead of 15 taking into account the age of the deceased as 30 years in view of the Ex.P-6, which is the certificate of Middle School Examination. It is further prayed that consortium @ 70,000/- should be granted.

Learned counsel for the respondents, however, while opposing the appeal submitted that income has been rightly assessed, as there is no evidence on record that the petitioner was a driver but is not able to dispute that the appellants are otherwise entitled to enhancement towards future prospects as well as consortium @ ₹ 70,000/- instead of ₹ 30,000/-, which was awarded by the Tribunal. Learned counsel for the respondents is also not able to dispute that deduction should have been 1/5th instead of 1/3rd taking into account five genuine claimants including mother, father, widow and two minor children of the deceased.

Heard.

The only dispute seems to be about the age of the deceased. It is not understood as to why the Tribunal did not take the certificate of middle examination (Ex.P-6) placed on record for determining the age. There is no reason to doubt the said document. Accordingly, the age of the deceased is assessed as 30 years as per Ex.P-6.

Accordingly, the amount of compensation is enhanced by granting loss of future prospects @ 40% as also multiplier of 17 instead of 15. Further under the head of consortium, the amount is enhanced to the extent of ₹ 70,000/- instead of ₹ 30,000/- and deduction too shall now be 1/5th in stead of 1/3rd.

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

Sr. No.	Head	Amount assessed
1	Income	3500/- per month
2	Future prospects @ 40%	1400+3500 = 4900/-
3	Dependancy @ 1/5th	4900-980 = 3920
4	Multiplier of 17	3920 x 12 x 17 = 799680/-
2	Conventional head	₹ 70,000/-
	Total	₹ 8,69,680/-
	Awarded by the Tribunal	₹ 4,44,000/-
	Enhanced amount	₹ 4,25,680/-

Thus, the enhanced compensation of ₹ 4,25,680/- be paid to the appellants within two months from the receipt of certified copy of this order 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. However, the appellants will not be entitled for the interest for the delay of 729 days.

The appeal is disposed of accordingly.

(NIRMALJIT KAUR)
JUDGE

29.10.2019
sharmila

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