In the High Court of Punjab and Haryana at Chandigarh

FAO-9915 of 2014 (O&M)
Date of Decision: 6.11.2019

Surender and others
---Appellants

versus

Krishan Kumar and others
---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Amit Sharma, Advocate
for Mr. J.S.Cooner, Advocate
for the appellants
Mr. Punit Jain, Advocate,
for Mr. M.B.Jain, Advocate
for the insurance company
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Rekha Mittal, J.
CM No. 27361-CII of 2014

Heard.

Allowed as prayed for. Delay of 31 days in filing the appeal stands condoned.

Main case

The claimants are in appeal seeking enhancement of compensation on account of death of Sagar in a motor vehicular accident that took place on 26.4.2013.

The Motor Accidents Claims Tribunal, Sonipat (in short “the Tribunal”) awarded Rs.2,49,000/-, detailed hereunder:-

Notional annual income of the deceased	Rs. 24000/-
Deduction for personal expenses	1/3rd
Multiplier	14
Loss of dependency	Rs. 2,24,000/-
Funeral expenses	25,000/-

Surender, father of deceased appeared in the witness box and produced original certificate of Middle examination PW1/AI, original Grade Sheet cum Certificate of Performance Ex. PW1/B, original progress report Ex.PW1/C, original participation certificate Ex. PW1/D, original certificate of merit/souvenir Ex. PW1/E and copy of jamabandi for the year 2004-05 Ex. PW1/F. As per documents on record, the deceased was born on 10.3.1997, thus, he was more than 16 years of age on the date of unfortunate occurrence. Taking into consideration the minimum wage of an unskilled labour coupled with educational qualification of the deceased, income of the deceased is assessed at Rs. 5400/- per month.

Claimants shall be entitle to increase in income for future prospects @ 40%. The application for compensation has been filed by parents and two minor sisters of the deceased. There is nothing on record suggestive of the fact that Surender, father of the deceased had any disability to impair his capacity to earn livelihood for his family. In the given circumstances, minor sisters can not claim loss of dependency. Accordingly, admissible deduction for personal expenses is 50%.

The Tribunal has wrongly applied multiplier on the basis of age of parents of the deceased in place of appropriate multiplier as per age of the deceased, therefore, admissible multiplier is 18. In this manner, loss of dependency is calculated at Rs. 8,16,480/- [5400 x 12 x18 = (40% thereof) – (50%)]

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

Expenses on funeral	Rs. 15,000/-
Loss of estate	Rs. 15,000/-

Total compensation is Rs. 8,46,480/- and the additional amount is Rs. 5,97,480/-, 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

6.11.2019
PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No