In the High Court of Punjab and Haryana at Chandigarh

FAO- 1828 of 2017(O&M)
Date of Decision: 28.2.2019

Kulwant Kaur and others ---Appellants

versus

Kuljeet Singh and others ---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. D.S.Gandhi, Advocate for the appellants

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Rekha Mittal, J.

CM No. 28211-CII of 2018

Allowed as prayed for. Statements of the witnesses are taken on record, subject to just exceptions.

Disposed of accordingly.

Main case

The claimants are in appeal seeking enhancement of compensation on account of death of Amar Singh in a motor vehicular accident that took place on 4.9.2015.

The Motor Accidents Claims Tribunal, Amritsar (in short "the Tribunal") has awarded compensation of Rs.,12,78,859/-, detailed hereunder:-

Monthly income of the deceased	Rs. 10,000/-
Addition in income for future prospects	15%
Deduction for personal expenses	1/4th
Multiplier	11
Loss of dependency	Rs. 11,38,500/-
Funeral expenses	Rs. 25,000/-
Loss of estate	Rs. 10,000/-
Loss of consortium to claimant No. 1	Rs. 1,00,000/-
Medical expenses	Rs. 5359/-

The sole submission made by counsel for the appellants is that income of the deceased assessed by the Tribunal is on lower side and needs enhancement. To bring home his contention, it is argued that Amar Singh was owner of more than five acres of land and the same has been given on 'theka' after his death. He was also doing business of dairy farming, by referring to certificate dated 19.5.2014(Annexure A-1) purported to be issued by Veternary Officer of Rajasansi. It is vehemently argued that in view of loss of income from agriculture and dairy farming, income is liable to be assessed accordingly.

Perusal of the award makes it evident that application for compensation has been filed by the widow, two sons aged 28 and 27 years, daughter Karanbir Kaur aged 23 years and old aged mother of the deceased. There is nothing on record suggestive of the fact that any such dairy business being carried on by the deceased has been closed on account of his death. Similarly, land owned by the deceased would be available to his family and is a source of income. In the given circumstances, loss of dependency is to be calculated by considering value of services of the deceased in respect of managing land and dairy business. The minimum wage at the relevant time was Rs. 7000/- per month. The Tribunal has assessed income of the deceased at Rs. 10,000/- per month and allowed addition in income for future prospects @ 15% as against 10% admissible in the light of judgment of Hon'ble the Supreme Court **National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270.** Even compensation allowed under conventional heads is Rs. 65000/- more than what can be permitted in the circumstances. In the given circumstances, there is no justification for allowing compensation more than what has been assessed by the Tribunal.

In view of what has been discussed hereinbefore, finding no merit, the appeal fails and is accordingly dismissed in limine. As the appeal has been decided on merits, application for condonation of delay of 47 days in filing the appeal is of academic relevance.

(Rekha Mittal)
Judge

28.2.2019
PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No