IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

237 FAO No.4226 of 2017 (O&M)

Date of decision: 14.11.2019

POONAM AND OTHERS ... Appellants

Versus

BHUPENDER SINGH AND ANR ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ram Bilas Gupta, Advocate for the appellants.
None 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 Sunil in a motor vehicular accident that took place on 31.10.2015.

The Tribunal awarded Rs.12,27,500/-, detailed hereunder:-

Monthly income of the deceased	Rs.7500/-
Multiplier	17
Deduction for personal expenses	1/4th
Loss of dependency	Rs.11,47,500/-
Expenses on funeral	Rs.10,000/-
Loss of estate	Rs.20,000/-
Loss of consortium	Rs.50,000/-

The plea of claimants is that deceased was doing job of false ceiling, aluminum doors, windows, toughened glass works etc. and he was employed with M/s Rihan Aluminum and Glass Works, Ballabgarh thereby earning more than Rs.12,000/- per month. They examined Shakil Khan PW4 proprietor of the said firm to prove avocation and income of the deceased. The Tribunal, in view of facts elicited in cross examination of Shakil Khan, refused to rely upon his testimony with regard to employment and income of the deceased and finally assessed his income at Rs.7500/- per month.

I have gone through testimony of Shakil Khan particularly the facts elicited in his cross examination but find myself unable to be persuaded with submission of appellants that income of the deceased is liable to be assessed on the basis of what has been deposed by Shakil Khan. However, the Tribunal has not rejected plea of the claimants that deceased was a skilled worker. Taking a clue from notification issued by the State of Haryana fixing minimum wage at the relevant time, I do not find any reason to assess income of the deceased more that what has been allowed by the Tribunal. Claimants shall be entitle to addition in income for future prospects @ 40%. Multiplier and deduction for personal expenses applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.16,06,500/- [(7500 x 12 x 17) + (40% future prospects) – (1/4th deduction for personal expenses)].

Under conventional heads, compensation allowed is modified to the effect that claimants shall be entitle to Rs.70,000/-, detailed hereunder:-

1. Loss of consortium	Rs.40,000/-
2. Loss of estate	Rs.15,000/-
3. Funeral expenses	Rs.15,000/-

Total compensation is Rs.16,76,500/- and additional amount is Rs.4,49,000/- (16,76,500 - 12,27,500), payable with interest @ 7.5% per annum from the date of petition till realization, to Master David and Master Nishant minor children of the deceased in equal ratio, to be invested in fixed deposit till they attain majority or for a period of three years, whichever is later. Interest accruing on FDR shall be payable to mother of the minors for meeting expenses on their education and living.

The appeal is partly allowed in the aforesaid terms.

14.11.2019 **(REKHA MITTAL)**
ashok **JUDGE**

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