IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

XOBJC-4-CII-2011 (O&M)
In/and FAO-3663-2010 (O&M)
Date of decision : 04.03.2020

Lakhraji Devi and others ...Appellants

Versus

Subash Kasana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rishav Jain, Advocate for the appellants.

Mr. Paul S. Saini, Advocate for respondent No.3/Cross-objector.

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ANIL KSHETARPAL, J. (ORAL)

This order shall dispose of appeal bearing FAO No.3663 of 2010 and Cross Objections bearing XOBJC-4-CII-2011 filed by the Insurance Company.

The claim petition was filed by the widow and son of late Sh. Ram Janak who died in an accident.

The finding of the Court on involvement of the offending vehicle as well as rash and negligent driving is not being questioned, therefore, the only issue which is required for determination is that what should be the appropriate amount of compensation.

Learned counsel for the appellants contends that as per salary certificate, gross salary of the deceased in the year 1999-2000 comes to ₹1,38,929/- per annum and the learned Motor Accident Claims Tribunal has erred in assessing the income at ₹7000/-. He further submitted that learned Tribunal has also erred in granting funeral expenses at ₹2000/- and loss of consortium at ₹5000/- and loss of estate at ₹2500/-.

On the other hand, learned counsel for the respondents has admitted that as per salary slip, gross salary of the deceased was ₹1,38,929/- per annum.

Keeping in view the arguments of learned counsel for the parties, this Court is of the considered view that learned Tribunal has erred while assessing the income of the deceased at ₹7000/- per month. Still further, on account of conventional head i.e. loss of estate, funeral expenses and consortium, the amount granted by the learned Tribunal is not sufficient.

Keeping in view the aforesaid facts, the compensation payable is re-calculated as under:-

Heads	**Compensation awarded by the Tribunal**	**Compensation awarded by the High Court**
Income assessed	₹7000/-	₹1,38,929 per annum (Gross salary of 1999-2000)
(-) Income Tax	NIL	(-) ₹16,000/-
	₹7000/-	₹1,22,929/-
(+) future prospects	(+) ₹2350/-	₹36,878/-
	₹9350/-	₹1,59,807/-
(-) Deduction	(1/4th) ₹2338/-	(-) ₹53,269/-
	₹7012/-	₹1,06,538/-
Multiplier (14)	₹7012/- x 12 x 14 = ₹11,78,016/-	₹1,06,538/- x 14 = ₹14,91,532/-
<u>Conventional Heads</u>		
Loss of Estate	₹2500/-	₹15,000/-
Funeral Expenses	₹2,000/-	₹15,000/-
Consortium	₹5000/-	₹40,000/-
Total Compensation	₹12,02,300/-	₹15,61,532/-
(-) Compensation already awarded by the Motor Accident Claims Tribunal		(-) ₹12,02,300/-
Enhanced Compensation = Compensation awarded by High Court (-) Compensation awarded by MACT	₹3,59,232/- {₹15,61,532/- (-) ₹12,02,300/-}	

The enhanced compensation i.e. ₹3,59,232/- shall be payable alongwith interest at the rate of 6% p.a. from the date of claim petition till realization. In view of the above, appeal bearing FAO No.3663 of 2010 and Cross Objections bearing XOBJC-4-CII-2011 filed by the Insurance Company, shall stand disposed of.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

04.03.2020 **(ANIL KSHETARPAL)**
Pawan **JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No