IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

230 FAO-2734-2016 (O&M)
DATE OF DECISION: 11.02.2020

CHAMELI DEVI … Appellant (s)

Versus

RAJESH KUMAR & ORS ... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Amit Kumar Goyal, Advocate for the appellant.

Ms. Vandana Malhotra, Advocate with
Ms. Monika Jangra, Advocate for respondent No.3.

ANUPINDER SINGH GREWAL, J. (ORAL)

CM-10156-CII-2016

This application is for condonation of delay of 16 days in preferring the appeal.

For the reasons mentioned in the application, the same is allowed and delay of 16 days in filing the appeal is condoned.

MAIN CASE

The appellant-claimant had been awarded a sum of Rs.5,82,800/- along with interest at the rate of 9% from the date of petition till the actual payment.

Learned counsel for the appellant-claimant contends that the deduction towards the personal expenses of the deceased should have been 1/4th instead of 1/2 as the deceased was married. The deceased was 42 years of age and, therefore, 25% towards future prospects should have been ordered. He further contends that under the conventional heads, only a sum of Rs.20,000/-

for loss of estate has been awarded and no amount has been awarded towards consortium and funeral expenses in terms of the judgment of the Supreme Court in the case of **National Insurance Company Vs. Pranay Sethi and ors., 2017 (4) RCR (Civil) 1009.**

On the contrary, learned counsel for respondent No.3 states that although the petitioner was married but he did not have any other dependent besides his wife. It has been held by the Supreme Court in the case of National Insurance Company Vs. Pranay Sethi and ors. (supra), that in the event of number of dependents are 2 to 4, then 1/3rd has to be deducted towards his personal expenses. Therefore, deduction of 1/2 towards the personal expenses is justified.

The deceased, while driving a motor cycle on 18.05.2014, was hit by a dumper and he along with injured Bhim Singh had sustained grievous injuries. The deceased namely Dalip Singh had lost his life. FIR No.198 dated 18.05.2014 under Sections 279 & 304-A of the IPC was registered at Police Station Tosham. The factum of the accident, which has taken place on account of rash and negligent driving of respondent No.1, had been duly established from the testimonies of PW-1, PW-2 and PW-3. The deceased was stated to be working as a Mason (Rajmistri), agriculturist and as a dairy farmer and the income has been assessed by the Tribunal on the basis of evidence led before it. Although the oral evidence of the appellant-claimant had been led with regard to the earning capacity of the deceased but the Tribunal had computed his income at the rate of daily wages which was fixed for a skilled worker at Rs.6700/- per month. Computation of income of the deceased at the rate of

Rs.6700/- per month appears to be justified as only oral evidence had been led with regard to his income. The monthly income of the deceased i.e. Rs.3350/- per month after deduction of 1/2 is also in consonance with the judgment of the Supreme Court in the case of National Insurance Company Vs. Pranay Sethi and ors. (supra) as he had only his wife as a dependent.

The Tribunal has not assessed any amount towards future prospects. In view of the judgment of the Supreme Court in the case of National Insurance Company Vs. Pranay Sethi and ors. (supra), 25% towards future prospects has to be taken into account. In this way the monthly income of the deceased would come out to be Rs.4187/- per month. The multiplier of 14 has rightly been applied by the Tribunal and the loss of dependency would be Rs.7,03,416/- (Rs.4187 x 12 x 14). She has been awarded sum of Rs.20,000/- for loss of love and affection which needs to be enhanced in terms of the judgment of the Supreme Court in the case of National Insurance Company Vs. Pranay Sethi and ors. (supra).

Consequently, the amount awarded under the conventional heads by the Tribunal is modified to the effect that a sum of Rs.70,000/- (Rs.15,000/- + Rs.40,000/- + Rs.15,000/-) for loss of estate, loss of consortium and funeral expenses shall be paid to the appellant-claimant. In this way, total amount of compensation would come out to be Rs.7,73,416/-.

The amount of Rs.20,000/- which had already been paid on account of these heads, would be adjusted while calculating the outstanding amount to be disbursed to the appellant.

Therefore, in this manner an amount of Rs.1,90,616/- (Rs.7,73,416 – Rs.5,82,800/-) stands enhanced in addition to the amount of compensation already awarded by the Tribunal.

The difference in amount of compensation i.e. Rs.1,90,616/- would carry interest at the rate of 9 % per annum from the date of filing of the claim petition till realization of the amount.

With the aforesaid modification, the appeal stands disposed of.

(ANUPINDER SINGH GREWAL)
JUDGE

11.02.2020.
SwarnjitS

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