IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

229 FAO-6616-2016 (O&M)

Date of decision: 29.01.2020

SATISH AND ANR ... Appellants

Versus

SANT RAM AND ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. SP Chahar, Advocate for the appellants.

Mr. Vipul Sharma, Advocate for
Ms. Radhika Suri, Advocate for insurance company.

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REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking additional compensation on account of death of Reena in a motor vehicular accident that took place on 19.07.2015.

The Tribunal awarded Rs.9,35,000/-, detailed hereunder:-

Monthly income of the deceased	Rs.7500/-
Multiplier	18
Deduction for personal expenses	50%
Loss of dependency	Rs.8,10,000/-
Expenses on funeral	Rs.25,000/-
Loss of consortium	Rs.1,00,000/-

Counsel for the appellants would argue that income of the deceased assessed is not based upon correct appreciation of materials on record as deceased was B.Sc Nursing, serving in Mukhi School of Nursing, Gohana at salary of Rs.10,000/- per month. Claimants may be allowed addition in income for future prospects. It is further argued that even if the deceased was working in a school, claimants are also entitle to loss of her services to the family.

Counsel for the insurance company, on the contrary, would argue that compensation allowed under conventional heads may be modified.

The Tribunal, in para 20 of the award, has noticed that Narender Singh, Office Superintendent, Mukhi School of Nursing, Gohana was examined to prove that deceased was working with aforesaid school as clinical instructor at salary of Rs.10,000/- per month. The Tribunal, despite noticing educational qualification of the deceased and without recording any reason to discard testimony of Narender Singh, had proceeded to assess income of the deceased at Rs.7500/- per month. Taking into consideration materials on record, income of the deceased is assessed at Rs.10,000/- per month. Claimants shall be entitle to addition in income for future prospects @ 40%. As the claim has been filed by the husband and minor child of the deceased, admissible deduction for personal expenses would be 1/3rd. Multiplier applied by the Tribunal is correct and affirmed. In this manner, loss of dependency qua earning of deceased is calculated at Rs.20,16,000/- [(10,000 x 12 x 18) + (40% future prospects) – (1/3rd deduction for personal expenses)].

Though the deceased was working as clinical instructor in a school, the family cannot be denied loss of her services to look after family's day to day affairs and discharging social obligations. However, keeping in view that deceased must be spending major part of her day in attending to her duties in school, value of her services to the family is assessed at Rs.4000/-. No deduction for personal expenses would be made in the light of Division Bench judgment of this Court **Paramjit Singh and another Vs. Dilbagh Singh @ Bagga and others, 2013(3) Law Herald 2730**. Multiplier applied by the Tribunal is correct and affirmed. In this manner, loss qua services of deceased is calculated at Rs.8,64,000/- (4000 x 12 x 18). In view of the above, total loss of dependency comes to Rs.28,80,000/-.

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.29,50,000/- and additional amount is Rs.20,15,000/- (29,50,000 - 9,35,000), payable with interest @ 7.5% per annum from the date of petition till realization to Kalph minor daughter of the deceased, to be invested in fixed deposit till she attains majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

29.01.2020 **(REKHA MITTAL)**
ashok **JUDGE**

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