IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

-.-

FAO 2189 of 2018 (O&M)
Date of decision: 22.01.2020

Monika Rai and others ....*Appellants*

Versus

Surender Kumar and others ....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Manoj K Sood, Advocate
for the appellants

Mr. Subhash Goyal, Advocate
for respondent – insurance company

-.-

Rekha Mittal, J. (Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Shiv Kumar alias Shiv Bahadur in a motor vehicular accident that took place on 27.02.2016.

The Tribunal awarded Rs.14,45,000/-, detailed hereunder:-

-Monthly income of the deceased	Rs.10,000/-
-Deduction for personal expenses	1/3rd
-Multiplier	14
-Loss of dependency	Rs.11,20,000/-
-Loss of consortium	Rs.1,00,000/-
-Funeral expenses	Rs.25,000/-
-Loss of love and affection to claimants No. 2 and 3 minor Rs.1,00,000/- each	Rs.2,00,000/-

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Counsel for the appellants would argue that as deceased was 40 years old, in view of his age recorded in post mortem report Ex.P4, admissible multiplier should be 15 in place of 14. The claimants may be allowed addition in income for future prospects. For this purpose, reference has been made to judgment of Hon'ble the Supreme Court ***National Insurance Company Limited v. Pranay Sethi and others, 2017 SC 1270***.

Counsel representing the insurance company, on the contrary, would argue that there is no clear evidence with regard to date of birth of deceased and the Tribunal has rightly held his age in the bracket of 40-45 years. Another submission made by counsel is that compensation allowed under conventional heads may be modified.

The plea of claimants is that deceased was 40 years of age and running a crockery shop at Ballabgarh. Monika, widow of deceased appeared in the witness box and stated that deceased was 40 years of age. Manoj (PW3) also corroborated statement of Monika with regard to age of deceased. In the post mortem report, the deceased is stated to be 40 years old. There is no evidence adduced by the respondents therein to counter testimony of Monika and other evidence on record. That being so, it is held that deceased was 40 years old at the time of occurrence. Accordingly, admissible multiplier is 15. As the deceased was not less than 40 years of age, addition in income for future prospects would be 25%. Deduction for personal expenses allowed is affirmed. In this manner, loss of dependency is Rs.15,00,000/- (Rs.18,00,000/- *i.e.* 10,000 x 12 x 15 + Rs.4,50,000 (25% addition) – Rs.7,50,000/- (1/3rd deduction).

Under conventional heads, compensation allowed is modified

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to the effect that claimants shall be entitle to Rs.70,000.00 (Rs.40,000.00 for loss of consortium, Rs.15,000.00 each qua loss to estate and funeral expenses), in the light of judgments of Hon'ble the Supreme Court ***National Insurance Company Limited v. Pranay Sethi and others, 2017 SCC 1270*** and ***Sebastiani Lakra and others vs. National Insurance Company Limited and another, 2018 AIR (SC) 5034.***

In view of the above, total compensation is Rs.15,70,000.00 and additional amount is Rs.1,25,000/- (15,70,000-14,45,000), payable with interest @ 7.5% per annum from the date of petition till realization to minor Jiwika Rai and Manwi Rai, in equal share, to be invested in fixed deposit till they attain majority or for a period of three years, whichever is later.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

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

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