IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

217 FAO-8359-2015 (O&M)

Date of decision: 05.02.2020

JOGINDER KAUR AND ORS ... Appellants

Versus

SOHAN SINGH AND ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Deepak Gupta, Advocate for the appellants.
Mr. Vinod Gupta, Advocate for insurance company.
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REKHA MITTAL, J. (Oral)

CM No.26404-CII of 2015

Heard.

Allowed as prayed for. Delay of 25 days in re-filing the appeal stands condoned.

Main Case

The claimants are in appeal seeking additional compensation on account of death of Gurmail Singh in a motor vehicular accident that took place on 13.04.2014.

The Tribunal awarded Rs.7,49,000/-, detailed hereunder:-

Monthly income of the deceased	Rs.6000/-
Multiplier	13
Deduction for personal expenses	1/3rd
Loss of dependency	Rs.6,24,000/-
Expenses on funeral	Rs.25,000/-
Loss of consortium and loss of love and affection	Rs.1,00,000/-

The plea of claimants is that deceased had income of Rs.20,000/- namely Rs.10,000/- per month from agriculture and another Rs.10,000/- per month from motor mechanic shop. They examined Gurdev Singh PW3 besides statement of one of the claimants namely Joginder Kaur to prove avocation and income of the deceased. They failed to produce any document either with regard to ownership or possession of land by the deceased or his running motor mechanic shop. Though Gurdev Singh PW3 was examined and he deposed that he was a partner as well as worker with Gurmail Singh but he has not deposed about particulars of the shop wherein

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business of mechanic was carried on by the deceased. In the given circumstances, it can safely be held that claimants failed to adduce sufficient much less cogent evidence to prove avocation and income of the deceased. Taking a clue from notification issued by the State of Punjab fixing minimum wage at the relevant time, income of the deceased is assessed at Rs.6500/- per month. Claimants shall be entitle to addition in income for future prospects @ 10% as the deceased is held to be 50 years old. Multiplier and deduction for personal expenses applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.7,43,600/- [(6500 x 12 x 13) + (10% future prospects) – (1/3rd 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.8,13,600/- and additional amount is Rs.64,600/- (8,13,600 - 7,49,000) payable with interest @ 7.5% per annum from the date of petition till realization, in terms of the award.

The appeal is partly allowed in the aforesaid terms.

05.02.2020 **(REKHA MITTAL)**
ashok **JUDGE**

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

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