IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

215

*****

FAO No. 3138 of 2017 (O & M)
Date of decision : 9.11.2022

Kiran and others ......**Appellants**

Vs.

Satish Kumar and others ......**Respondents**

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Narender Kumar, Advocate, for the appellants

Mr. Pradeep Kumar, Advocate, for respondent no. 3/Insurance co.

TRIBHUVAN DAHIYA, J. (Oral)

1. This is an appeal filed by the claimants on account of death of Surinder Singh, on 28.2.2016 in a motor vehicular accident, seeking enhancement of compensation awarded to them by the Motor Accident Claims Tribunal, Kaithal (in short 'the Tribunal'), vide award dated 5.10.2016.

2. The only argument raised by learned counsel for the appellants is that the dependency has been wrongly assessed. All the five claimants being dependant on the deceased, his income was required to be deducted only 1/4th, whereas, the Tribunal has applied a cut of 1/3rd on the deceased's income, which is contrary to law.

3. Learned counsel for the Insurnace company could not dispute the fact as well as the settled legal position in that regard.

4. As per law laid down by the Supreme Court in ***Sarla Verma v. Delhi Transport Corporation*** **2009 (3) RCR (Civil) 77,** deduction of 1/4th from the deceased's income towards personal and living expenses has to be

made if the number of dependents is four to six. In the instant case, there are five dependents of the deceased, his widow, two sons and old parents, who are the appellants/claimants. Therefore, the dependency was required to be assessed by applying a cut of 1/4th on the deceased's income.

5. Besides, the amount under the conventional heads has not been awarded as per law settled in ***National Insurance Company Limited v. Pranay Sethi and others*** **2017 (4) RCR (Civil) 1009,** wherein it was held that reasonable figures under the conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% every three years. Accordingly, the respondents/claimants would be entitled to 10% enhancement with respect to compensation under the conventional heads; with this increase the amount under the conventional heads comes to Rs.16,500/-, Rs.2,20,000/- (44,000 x 5) and Rs.16,500/- respectively.

6. In view of the aforesaid, the award passed by the Tribunal dated 5.10.2016 awarding total compensation of Rs.4,34,630/-along with interest at the rate of 7% per annum is modified only to the extent that dependency of the deceased is to be assessed by deducting 1/4th of the amount, instead of 1/3rd, from his income; and compensation under the conventional heads is to be enhanced as per the settled law. Accordingly, the appellants/claimants become entitled to the following amount of compensation:

Sr. No.	Head	Compensation awarded by this Court
1	Annual income (26810 x 12)	3,21,720
2	Future prospects @ 30% of annual income	96,516
3	Total income including future prospects	4,18,236
4	After deduction @ 1/4th towards personal expenses	3,13,677 (4,18,236-1,04,559)
5	Multiplier (14) 3,13,677 x 14	43,91,478
6	Loss of estate	16,500
7	Loss of consortium	2,20,000 (44,000 x 5)
8	Funeral expenses	16,500
9	Deduction of salary of deceased of 11 years	(-)35,38,930

10	Total amount of compensation	11,05,548

7. As a result of above analysis, the appeal is allowed, the award of the Tribunal dated 5.10.2016 is modified as aforesaid. Resultantly, amount of compensation is enhanced to Rs.11,05,548/-. The excess amount of compensation so enhanced shall be paid by the respondents to the claimants with interest at the rate of 7% per annum from the date of filing the claim petition till its actual realization. The liability to satisfy the award, share of the claimants, and the procedure of disbursal shall be as already determined by the Tribunal.

8. Pending miscellaneous application(s), if any, stands disposed of as having been rendered infructuous.

(TRIBHUVAN DAHIYA)
JUDGE

9.11.2022
Ashwani

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