IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

271 **FAO-4798-2016**
DATE OF DECISION: 07.02.2023

JOGINDER KAUR AND ANR … Appellant (s)

Versus

RAJAN VOHRA AND ORS ... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Anil Kumar Spehia, Advocate
for the appellants.

Mr. Jasraj Singh, Advocate for respondent No.1.

Mr. D.R. Bansal, Advocate for respondent No.3.

ANUPINDER SINGH GREWAL, J. (ORAL)

Learned counsel for the appellants submits that the Tribunal has erroneously determined the income of the deceased at Rs.6,000/- per month although he was working as a Painter and earning over Rs.15,000/- per month. He also submits that the Tribunal has not granted any amount towards loss of consortium, the funeral expenses and loss of estate which is contrary to the law laid down by the Supreme Court in the case of **National Insurance Company Limited Vs. Pranay Sethi and others**, reported as **2017 (4) RCR (Civil) 1009 (SC).**

Learned counsel for respondent No.3 submits that the income has been rightly determined by the Tribunal. The witness of the claimant, AW-5 had himself stated that the wages of a skilled labourer was Rs.8,337.10/- per month. He, however, does not dispute that the compensation under the afore-noted heads ought to have been given by the Tribunal in view of the law laid down by the Supreme Court in the case of **National Insurance Company Limited Vs. Pranay Sethi and others** (supra).

Heard.

The deceased was working as a Painter. It is difficult for the claimant to have led documentary evidence with regard to his income. It is not in dispute that a Painter performs skilled work and at times commands high rate of wages. In any event, the amount of wages for a skilled labour at that time were Rs.8,337.10/- per month. It would be just and appropriate if the income of the deceased is taken at Rs.8,500/- per month. The claimants would also be entitled to a sum of Rs.44,000/- each for loss of consortium, Rs.16,500/- for funeral expenses and Rs.16,500/- for loss of estate. The claimants shall also be entitled to addition in income for future prospects @ 40%. Multiplier and deduction for personal expenses applied by the Tribunal are correct and affirmed. Therefore, the loss of dependency is calculated at Rs.12,85,200/- [(5950 x 12 x 18) + (40% future prospects) – (1/2th deduction for personal expenses)].

The compensation allowed by the Tribunal is modified to the extent that claimants shall be entitled to Rs.14,06,200/- detailed hereunder:-

Sr.No.	Head of Compensation	Amount of compensation
1	Annual Income (Rs.8500 x 12)	Rs.1,02,000/-
2	Income after addition of future prospects @ 40%	Rs.1,42,800/-
3	Deduction on account of dependency	1/2
4	Assessed income	Rs.71,400/-
5	Multiplier @ 18	12,85,200
6	Loss of Consortium (Rs.44,000/- x 2)	Rs.88,000/-
7	Funeral Expenses	Rs.16,500/-
8	Loss of Estate	Rs.16,500/-
	Total	Rs.14,06,200/-

The total compensation would be Rs.14,06,200/-. The compensation awarded by the Tribunal is Rs.9,97,000/-. Therefore, the enhanced compensation would be Rs.4,09,200/- (Rs.14,06,200/- - Rs.9,97,000/-). The enhanced compensation of Rs.4,09,200/- shall be payable along with interest thereon at the rate of 7.5 % per annum from the date of filing of the claim petition till its realization.

The appeal is partly allowed in the aforesaid terms. Memo of costs be drawn accordingly.

(ANUPINDER SINGH GREWAL)
JUDGE

07.02.2023
SwarnjitS

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