IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

C.R. No.408 of 2006
Date of Decision.27.08.2015

United India Insurance Co. Ltd. ....Petitioner

Versus

Indro Devi and others ......Respondents

2. **FAO No.4086 of 2005**

Indro Devi and others ....Appellants

Versus

Dharama Singh and others ......Respondents

Present: Mr. R.M. Suri, Advocate
for the petitioner in C.R. No.408 of 2006 and
for respondent No.3 in FAO No.4086 of 2015.

Mr. J.P. Dhull, Advocate
for the appellants in FAO No.4086 of 2005 and
for the respondents in C.R. No.408 of 2006.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J.

1. The appeal in FAO No.4086 of 2005 is by the claimants seeking for enhancement of compensation, while the civil revision in C.R. No.408 of 2006 is at the instance of the insurance company. It would appear from the records that the appeal filed by the insurance company was not entertained on the issue of quantum and on advice by an order that it can be challenged only for any illegality under Article 227, the award of the Tribunal has been challenged by means of a civil revision.

2. The case relates to death of an employee in Food Corporation of India which was said to be getting an income of ₹ 2,17,130/- for the assessment year 2003-04 as per the income tax returns and having an income of ₹ 2,42,606/- for the assessment year 2004-05. The respondent examined the person from the Accounts Section of the employer, who gave evidence to the effect that gross salary of the employee was ₹ 8848/-. He also admitted that he was shown to have received an income of ₹ 12,151/- as over time in the year 2003-2004. The Court observed that there was a discrepancy between the income tax returns and the salary certificate and the claimants had not appropriately explained the discrepancy. I find that there was not even a suggestion to the employer's witness that the salary certificate did not depict the correct state of affairs. The Tribunal took the income at ₹ 10,000/- per month, took the annual income after deduction at ₹ 80,000/-, applied a multiplier of 16 and awarded for a compensation of ₹ 12,90,000/-. It included ₹ 10,000/- towards funeral expenses and loss of consortium. It is against this award that the respective parties have preferred appeals.

3. I have no doubt in my mind that the assessment made is erroneous and on the lesser side. There is no scope for examining the case as requiring a modification on the lesser side in the manner canvassed by the insurer. I will take the income as found in the income tax assessment and provide for 50% increase as a prospect of future enhancement of salary and apply a multiplier of 15 after making a deduction of 1/4th for the personal expenses considering the fact that the deceased was supporting his wife, four children and the mother. I will

also provide for an additional compensation of ₹ 1 lac as loss of consortium and would take the loss of love and affection for each of the children at ₹ 50,000/- instead of ₹ 1 lac which is being awarded by the Supreme Court in ***Rajesh v. Rajbir Singh, (2013) 9 SCC 54***. This is considering the fact that the accident had taken place more than 10 years before and the scales of compensation also provide for assessment of interest and the interest component itself will take care of additional sum by way of loss of love and affection in the manner determined now. I will tabulate the same payable to the claimants as under:-

FATAL ACCIDENTS Date of accident		27.02.2004	
Age	39 years		
Occupation	Employee in FCI	8848/-	
Claimants	Widow, 4 children and mother		
	Heads of claim	**Tribunal**	**High Court**
Sl. No.		Amount (₹)	Amount (₹)
1	Income	10,000 (monthly)	2,42,606 (annual)
2	Add, % of increase 50%		3,63,909
3	Less, Deduction		2,72,932
4	Multiplicand (annualized by multiplying 12)	80,000	2,72,932
5	Multiplier	16	15
6	Loss of dependence	12,80,000	40,93,980
7	Medical Expenses & Transportation		
8	Loss of Consortium & funeral expenses	10,000	1,00,000
9	Loss of love and affection		2,00,000
10	Loss to estate		5000
11	Funeral expenses		5000
	Total	**12,90,000**	**44,03,980**

4. The compensation awarded shall be ₹ 44,03,980/- and the additional compensation over what has already been awarded by the Tribunal shall also attract interest @7.5% from the date of petition till

the date of payment. The additional compensation shall be distributed equally amongst the wife, children and mother in such a way that the wife and children take equally twice as much as the amount paid to the mother. This will be in the ratio of 2:2:2:2:2:1.

5. The award stands modified and the appeal by the claimants is allowed to the above extent making the insurance company liable for the same. The civil revision filed by the insurance company is dismissed.

(K. KANNAN)
JUDGE

August 27, 2015
Pankaj*