

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No.1069 of 1996 (O&M)

Date of decision:09.09.2015

Mrs. Shobha Chauhan and others

... Appellants

versus

Shri Sukhdev and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. P.S. Punia, Advocate,
for the appellants.

Mr. R.C. Gupta, Advocate,
for respondent No.3-Insurance Company.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ? No.

K.Kannan, J. (Oral)

1. The appeal is at the instance of the persons claiming to be the legitimate wife of the deceased Tej Pal Singh and her children through Tej Pal Singh. The contesting parties at the trial were the appellants and the respondents 4 and 5 before the court below who claimed to be yet another wife and child respectively of the deceased Tej Pal Singh. The trial centered around the issue of who was the legitimate wife and who were the legitimate children. The 1st appellant claimed to have married the deceased in the year 1971 and

relied on a petition and an order passed in her application for restitution of conjugal rights in the year 1983. The deceased had not denied the fact of marriage as having taken place in the year 1971 and this was relied on by the first appellant as the most significant document to prove her marriage. The 4th respondent contested the first appellant's status and contended that she had not been married at all to her husband and that she was married on 08.12.1978 to the deceased and through him, there was a child born who was the 5th respondent. The Tribunal had considered the evidence adduced by the parties at length and had given elaborate reasoning as to why he could not rely on the recital of the year of alleged marriage of the first appellant with the deceased. He adverted to the evidence of the witness produced by the first appellant that the parents of neither of the parties attended the wedding. The Tribunal found this to be rather unusual. The Tribunal also commented about the timing of the petition for restitution of conjugal rights when the 4th defendant had given birth to a child in the year 1982 and soon after her child was born, the first appellant was trying to create an evidence as though she had been married to Tej Pal Singh even earlier to secure for herself and her children the legitimate status. At the cross-examination of the first petitioner, she admitted to not knowing even the direction for the street where her husband's village house was situate where she was said to have resided with him for some time.

The Tribunal made observation of the fact that the first appellant and the deceased were classmates in college. She must have developed intimacy with him later and that was the reason as to why, there was no other document except the court proceeding which had shown her joint living with the deceased prior to the year 1983. The voter list and the ration card were for subsequent years of 1986 while the 4th respondent was able to produce better evidence such as a letter with postal endorsement showing the engagement ceremony for marriage to one of the relatives and further the ration card and voter list were even from the year 1979. The Tribunal did what was appropriate in not merely discarding the claims of the children born to the first appellant and treated them for the purpose of grant of compensation at par with the 4th and 5th respondent. I do not think there is a case made for disturbing this finding.

2. As regards the quantum of compensation, I will rework the same on the scales of what are now ordered through various decisions and tabulate them as under:-

Accident	16.05.1990		
Age	38		
Occupation			
Claimants			
	Heads of claim	Tribunal	High Court
Sr. No.		Amount (₹)	Amount (₹)
1.	Income		2,700
2.	Add,% of increase 30%/50%		4,050
3.	Deduction ½, 1/3, ¼, 1/5		3,037.50
4.	Multiplicand		36,450
5.	Multiplier		15

<u>FAO No.1069 of 1996 (O&M)</u>			- 4 -
6.	Loss of dependence		5,46,750
7.	Medical expenses		
8.	Loss of consortium		1,00,000
9.	Loss of love and affection		1,50,000
10.	Loss to estate		5,000
11.	Funeral expenses		10,000
	Total	3,46,000	8,11,750

There shall be an award of ₹8,11,750/- and the compensation which is ordered is excess of what was already granted shall be distributed only amongst the appellants 2 and 3 and respondents 4 and 5. The parents who had the benefit of a portion of compensation are themselves not in appeal and I do not think the enhanced compensation would require to be distributed to either one of them. The additional compensation will also attract interest at 7.5% per annum from the date of petition till date of payment. The liability shall be in the same manner as determined already by the Tribunal.

3. The judgment of the Tribunal is modified and the appeal is allowed in part so as to provide for compensation for appellants 2 and 3 only along with respondents 4 and 5.

(K.KANNAN)
JUDGE

09.09.2015
sanjeev