

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

FAO No.1961 of 1996
Date of Decision: 04.02.2015

Sona Devi

.....Appellant

Vs.

Janta Ram and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN.

Present:- Mr.R.S.Mamli, Advocate for the appellant.

Mr.Gaurav Singla, Advocate for respondent No.1.

MAHAVIR S. CHAUHAN, J. (ORAL)

Siya Ram an 18 years old youth has died in a motor vehicle accident caused on account of rash and negligent driving of a truck bearing registration No.PBV1227 by respondent No.1-Janta Ram at about 10.00 p.m. on 07.11.1991. His mother Sona Devi brought claim application No.201 of 1991 which, after contest, has been disposed of by learned Motor Accident Claims Tribunal, Kaithal ('the Tribunal' for short) vide award dated 27.01.1996 by awarding a compensation amounting to ₹25,000/- in favour of the applicant/appellant in view of the difficulty that no evidence was brought by the applicant/appellant in proof of income from agricultural land and contribution of the deceased towards that.

It is argued on behalf of applicant-appellant that the compensation awarded is very much on the lower side but learned counsel appearing for respondent No.1 submits that nothing more than what has been awarded by the learned Tribunal can be awarded to the applicant/appellant as no evidence in proof of the averments made in the application has been brought-forth.

Be that as it may, factum and manner of occurrence and age of the deceased have remained undisputed and that being so compensation amounting to ₹25,000/- cannot be said to be just and reasonable because even a daily wager would earn at least ₹3,000/- per month in the year 1991. As such, income of the deceased is assessed at ₹3000/ per month. To it, 50% has to be added on account of future prospects. This would bring income of the deceased to ₹4500/- per month. Out of it, 1/3rd has to be deducted towards expenditure of the deceased upon himself. This would bring loss of dependency to ₹3,000/- per month or say ₹36,000/- per annum. Age of the deceased being 18 years, a multiplier of 18 has to be applied. Compensation payable to applicant/appellant, thus, comes to ₹6,48,000/-. To it, an amount of ₹25,000/- has to be added as expenditure on last rites of the deceased and ₹5000/- as loss of estate. So calculated total compensation payable to the applicant/appellant comes to ₹6,78,000/-. This amount shall be inclusive of the amount of compensation awarded by the learned Tribunal.

At this stage learned counsel for respondent No.1 refers to Order XLI Rule 27 of the Code of Civil Procedure, 1908, and has argued that even without filing cross appeal/cross objection, the respondents are entitled to challenge the rate of interest which is on the higher side. This contention seems to carry weight because rate of interest has been reduced by the bank and even in these days interest is being continuously reduced by the banks and even in these days interest given by the banks is at 6% per annum. In view of this, interest available to the applicant/appellant on the enhanced payment of compensation is reduced from 12% to 6%

per annum from the date of this order till date of payment/realization of the enhanced amount.

Other terms of the award shall remain unchanged.

The applicant/appellant is also held entitled to costs of this appeal which are assessed at ₹2200/-.

This appeal is disposed of in the above said terms.

(MAHAVIR S. CHAUHAN)
JUDGE

04.02.2015
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