THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 111 of 1999
Date of decision : 05.02.2015

Veena Thakur and others

......Appellants

Versus

Sandeep Kumar and others

...Respondents

CORAM: HON'BLE MS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of the 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 ?

Present: Mrs. Kiran Bala Jain, Advocate
for the appellants

Mr. J.C. Kapoor, Advocate
for respondent No. 1

Mr. R.M. Suri, Advocate
for the Insurance Company

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ANITA CHAUDHRY, J.

The appeal is at the instance of the claimants seeking enhancement of compensation in an accident case in which Khem Raj 37, Havaldar with the Indian Army, had died.

The Tribunal considered the salary certificate Ex. P1 and found that the deceased was getting ₹ 3,300/- per month as salary. It rejected the oral evidence led by the claimants to show that the deceased was also getting ₹ 17/- per day in lieu of free ration. The unit method was applied and the monthly dependency was taken at ₹ 2,350/-. The yearly dependency was taken at ₹ 28,200/- and adopting the multiplier of 16, the compensation was calculated at ₹ 4,51,200/-.

Learned counsel for the appellants contends that since the deceased was an army personnel and was under 40 years of age then there should have been addition of 50% towards future prospects and the deduction should have been 1/4th keeping the number of dependents and multiplier applicable would be 15. It was urged that as per the latest judgment reported in ***Rajesh and others vs. Rajbir Singh and others, 2013 (3) RCR(Civil) 170,*** they were entitled to ₹ 1,00,000/- for loss of estate and loss of consortium each and ₹ 20,000/- as funeral expenses. It was contended that the appeal filed by the Insurance Company against this award had been dismissed.

The submission on the other hand was that the issue regarding addition towards future prospects is under consideration with the Apex Court and addition of 20% should only be made and as the accident had taken place in 1995 and addition on the miscellaneous heads can not be same as awarded in ***Rajesh's case (supra).***

The claimants had failed to lead evidence to show that the deceased was getting any extra amount for ration. The Tribunal had taken income which was shown in the last pay certificate Ex. P1, therefore, no change in the income should be made. However, since the deceased was an army personnel, an addition of 50% had to be made on account of future prospects raising the total income to be ₹ 6,600/- per month. After making a deduction of 1/4th the amount available for the family would be ₹ 4,950/- and the annual contribution would come to ₹ 59,400/-, applying the multiplier of 15 the compensation would come to ₹ 8,91,000/-. To this a sum of ₹ 5000/- should be added as funeral expenses, ₹ 10,000/- for loss of love and affection and ₹ 10,000/- as loss of consortium, raising the total to ₹ 9,16,000/-. The Tribunal had awarded a sum of ₹ 4,51,200/- which would be deducted and the Insurance company will pay the balance amount to the appellants within two months failing which the appellants shall be entitled to interest @ 6% p.a. from the date of filing of the appeal till realization.

05.02.2015 **(ANITA CHAUDHRY)**
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