IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2494 of 2000 (O&M)
Date of Decision: February 05, 2015

Gurdial Kaur and others

..Appellant(s)

Versus

Rattan Singh and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE ANITA CHAUDHRY

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

Present: Mr. A.D.S. Sukhija , Advocate for the appellant(s).

Ms. Shamsher Kaur, Advocate for respondent no.3.

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ANITA CHAUDHRY, J.

1. This appeal is by the claimants seeking enhancement in the award dated 14.10.1999, passed by the Motor Accident Claims Tribunal, Faridkot (here-in-after referred to as the Tribunal).

2. The submission made on behalf of the appellants is that the deceased Mohinder Singh used to run a grocery store and by way of illustrative evidence some bills were produced and the Tribunal had added those bills and had given an addition as profit and had assessed the income to be Rs.16,000/- per annum, which was on the lower side. It was

urged that daily wages during that year were much higher and were Rs.60/- per day. It was urged that separate amount for loss of consortium, funeral expenses and loss of love and affection as per the decision of Hon'ble Supreme Court in ***Vimal Kanwar and others Vs. Kishore Dan and others 2013(2) RCR (Civil) 945*** should be allowed.

3. The submission on the other hand was that the Tribunal had minutely referred to each witness and the statement given by them and the documents which were produced to show the income were considered. It was urged that the Tribunal had assessed the income to be Rs.16,000/- per annum and the daily wages were much lower and the higher income had been taken into account. It was urged that Vimal Kanwar's judgment came much later and this accident pertains to the year 1997 and the same amount cannot be awarded.

4. The minimum wages in 1997 in Punjab were Rs.1405/- per month. The claimants have pleaded that the deceased had worked with LIC India for a while but no record was produced, therefore, that evidence was rejected. There was some contradiction with respect to the age of the deceased which has been dealt with by the Tribunal and it had rightly held that the deceased was 60 years old. The deceased was not maintaining any account books. The Tribunal had noted that intentionally those had been withheld. The solitary statement made by the son of the deceased without

supporting documents was rejected. The Tribunal had referred to the bills signed by the Munim and had arrived at the annual income. Even if it is taken that all the bills could not have been produced, the annual income could not be more than Rs.18,000/-. Therefore, I take the income to be Rs.18,000/- per annum instead of Rs.16,000/- per annum. Making a deduction of 1/3rd towards personal expenses, the amount available for the family would be Rs.12,000/- per annum.

5. Applying the multiplier of 9, the compensation would come to Rs.1,08,000/-. To this, a sum of Rs.10,000/- for loss of consortium, Rs.10,000/- for loss of love and affection, Rs.5,000/- for funeral expenses and Rs.10,000/- for loss of estate is added, which raises the total to Rs.1,43,000/-. The Tribunal had awarded Rs.80,000/- which would be deducted and the remaining amount would be shared by the appellants in the same ratio as allowed by the Tribunal. The amount would be paid within two months, failing which the appellants would be entitled to interest @ 6% from the date of filing of the appeal till realization.

(ANITA CHAUDHRY)
JUDGE

February 05, 2015
sunil