THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 514 of 1998
Date of decision : 12.02.2015

Vanita Chugh and others

......Appellants

Versus

Kuldip Singh 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: Ms. Neelofer A. Perveen, Advocate
for the appellants

Mr. Kapil Bansal, DAG Punjab
for respondents No. 2 and 3

****

<u>ANITA CHAUDHRY, J.</u>

This is the claimants appeal seeking enhancement of the award allowed to them by the Motor Accident Claims Tribunal, Ambala.

Lt. Col. B.M. Chugh met with an accident on 28.09.1995. The claimants pleaded that B.M. Chugh was an employee of Golden Army Public School, Ambala and was earning ₹ 15,000/- per month. He was 51 years old. The Tribunal considered the evidence and noted that the claimants had tried to show an exaggerated income. Some counterfoils of deposit slips were produced to show that he had income. It was noted that the deceased was a pensioner and he was getting pension of ₹ 4,000/- per month and after his death his family would get 50% of that amount. The Tribunal held that there would be loss of ₹ 2,000/- per month in the pension and calculated his income at ₹ 1,000/- p.m. and took the monthly loss to be ₹ 3,000/- and annual loss at ₹ 36,000/-. A multiplier of 10 was applied to calculate the compensation to ₹ 3,60,000/-.

The submission on behalf of the appellants was that the Tribunal had wrongly rejected the statement given by the witnesses and the deceased was working as Chairman of the Golden Army Public School and they had produced the return Ex. P8 which was wrongly rejected. It was urged that they had produced deposit slips to show that it was on account of investment in shares and there was additional income. It was urged that the pension mentioned in the petition was the old rates and there was revision in salaries/pension and now the Government had given one rank one pay to all the ex-servicemen. It was urged that considering the large number of claimants, a deduction of 1/5th should have been made. It was contended that future increase in income was also to be added and the appellants were entitled to loss of consortium, loss of estate and loss of love and affection had been granted and the award be modified. Reliance was placed upon ***Rajesh and others vs. Rajbir Singh and others, 2013 (3) RCR(Civil) 170*** and ***Yerramma and others vs. G. Krishnamurthy and another, JT 2014 (11) SC 272.***

The submission on the other hand was that addition towards future prospects is added only where the deceased was getting a fixed salary with no increments. It was urged that the Tribunal had elaborately dealt with the evidence and had noted that the brother of the deceased had given an exaggerated amount to claim higher compensation for the claimants. It was urged that the Tribunal had noted that if the shares had been purchased then the family could reinvest and earn income and there would be no loss. It was urged that the claimants had failed to lead any evidence to show that there was any revision in the salaries nor one rank one pay policy had been placed on record.

The claimants plea that the deceased had income from shares was rightly rejected by the Tribunal and there is no reason to take a different view. Mere deposits of some amount was not enough. The share certificates were not produced. The deceased was a pensioner and after his death the pension amount had been reduced to half i.e. ₹ 2,000/-. The claimants had pleaded that the deceased was Chairman of Golden Army Public School, Ambala and had produced a certificate signed by the brother of the deceased which is on a letter head. No record was produced in support there of. The certificate by itself could not have been considered. Such documents can easily be prepared. It was very easy for the Management to provide the details to the family and adduce evidence. However, I find that there is an income tax return for the year 1995-1996 which had been submitted prior to the death which shows the annual income to be ₹ 55,014/-. The income of the deceased can be taken to be the income which is shown in the income-tax return. Besides this, the annual loss on account of pension can be added which would be ₹ 2,000 x 12 = ₹ 24,000/-. The total income can be taken to be ₹ 55,114 + ₹ 24,000 =

₹ 79,114/-. Deducting 1/4th towards personal expenses, the amount available to the family would be ₹ 59,336/-. Applying the multiplier of 11, the compensation would come to ₹ 6,52,696/-. To this a sum of ₹ 10,000/- should be added for loss of love and affection, ₹ 10,000/- for loss of consortium, ₹ 5,000/- for funeral expenses, raising the total to ₹ 6,77,696/-. The Tribunal had allowed a sum of ₹ 3,60,000/-, which would be deducted and the balance amount would be shared in the same ratio as allowed by the Tribunal and would be paid within two months failing which the appellants shall be entitled to interest @ 6% p.a. from the date of filing of appeal till realization.

12.02.2015 **(ANITA CHAUDHRY)**
reena **JUDGE**