

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.728 of 1999 (O&M)

Date of Decision:04.02.2015

Shrimati Raj Bala and others

....Appellants

Versus

Jai Parkash and others

....Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present: Mr. Ram Chander, Advocate for the appellants.

Mr. Anmol Malik, AAG, Haryana for respondents No.2 & 3.

NAVITA SINGH, J.

1. The appellants had preferred a claim before the Motor Accident Claims Tribunal, Karnal (Tribunal for short) on account of the death of Krishan Kumar, who died on 23.7.1997 as a result of injuries received by him in the motor vehicle accident, which happened on 10.7.1997. The compensation awarded to them was Rs.1,80,000/-. They prayed for enhancement.

2. Counsel for the appellants argued that income of the deceased was taken to be Rs.1500/- per month treated him to be an unskilled worker. He was actually earning much more. According to the widow, when she appeared as a witness, the income of her husband was Rs.10,000/- per month. This amount was found to be exaggerated as the Tribunal held that the monthly income of the school, where the deceased was working, could come to a maximum of Rs.10,000/- per month and, therefore, the same amount could not have been paid to the deceased. Discussion in this regard was made in para 14 and 16 of the award very validly, on the basis of the number of students in the school where the deceased was employed and the fee charged from each student. The appellants withheld best evidence in as much that they did not produce record of

the school to prove salary of the deceased. The point regarding income was also not seriously pressed. It is, therefore, taken that the assessment of the income made by the Tribunal was correct.

3. So far as the deduction on account of personal living expenses of the deceased was concerned, the same was excessive because the Tribunal, out of a monthly income of Rs.1500/-, held that the dependency of the appellants on the income of the deceased was to the tune of Rs.800/- per month. Almost half of the salary was deducted towards personal expenses of the deceased, which was not the right thing to do. It is, therefore, held that since there were four members in the family besides the deceased, deduction to the extent of 1/4th should be made, which would be Rs.375/- per month. The amount, computed for compensation on the basis of income for the appellants, would be Rs.2,16,000/-.

4. The next contention on behalf of the appellants was that an amount of Rs.2000/- was awarded for funeral expenses, which was pittance. This argument is not convincing because according to what the deceased was earning, the family could not have spent more than Rs.2000/- for funeral and last rites in 1997. That amount already stood spent and, therefore, does not call for any enhancement. For loss of consortium and loss of love and affection to the children, an amount of Rs.1,00,000/- is awarded. The total compensation, therefore, would come to Rs.3,37,127/-. Enhanced amount shall be payable to the appellants with interest at the rate of 6% per annum.

5. The appeal is partly allowed in the above said terms.

**(NAVITA SINGH)
JUDGE**

04.02.2015
Ishwar

Whether to be referred to reporter: Yes