IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.960 of 1999 (O&M)
Date of Decision: January 28, 2015

Bimla Devi and others

...Appellant(s)

Versus

Ramesh Kumar 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? No

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

Mr. K.S. Malik, Advocate
for respondent Nos.1 & 2.

Mr. Sanjiv Pabbi, Advocate
for respondent no.3.

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ANITA CHAUDHRY, J.

1. This appeal is by the claimants seeking enhancement in the compensation allowed to them vide award dated 09.12.1992, passed by the Motor Accident Claims Tribunal, Karnal (here-in-after referred to as the Tribunal).

2. Briefly narrating the facts. Dewa Singh was 36 years old and stated to be a R.M.P. His income was Rs.5,000/- per month. The claimants had pleaded that deceased was a Homeopathic Doctor. The Tribunal found that except for the oral statement, there was a certificate which did not indicate his qualification. The claimants were not able to depose whether the deceased was

practising Homeopathy or Ayurveda. It had noted that no record was produced to show the income and Rs.2,000/- per month was considered to be his income. The Tribunal applied the unit method and considered the dependency to be Rs.1,600/- per month and after applying the multiplier of 14, calculated the compensation to be Rs.2,68,000/-.

3. The submission made on behalf of the appellants was that the income of the deceased was wrongly taken at Rs.2,000/- per month and since the family members were large, 1/5th deduction was made which should have been 1/10th and no amount was allowed on account of funeral expenses, loss of consortium and loss of love and affection.

4. The respondents' counsel supported the judgment and urged that for a family of five members, 1/5th deduction was appropriate and in the absence of any evidence regarding the income, the Tribunal could not have taken a higher income.

5. I have gone through the award and have found that the Tribunal had made a detailed discussion considering all the material that was produced before it on the point of negligence as well as the income. The claimants failed to lead evidence regarding the income. If the deceased was running a clinic, he would have maintained some accounts. He would have purchased medicines and maintained registers. No change in the income should be made. Similarly, the deduction of 1/5th towards personal expenses was appropriate. If the income is taken at Rs.2,000/- per month

and deduction of 1/5th is made, the amount available for the family would be Rs.1,600/- per month. I find that that multiplier of 14 had been applied which should be 15, considering the age of the deceased. Therefore, the compensation if recalculated would be Rs.1,600/- x 12 x 15 = Rs.2,88,000/-. I would add Rs.5,000/- as funeral expenses. A sum of Rs.10,000/- is added as loss of consortium and a sum of Rs.10,000/- is added as loss of love and affection; raising the total to Rs.3,13,000/-. The Tribunal had awarded Rs.2,68,000/- which would be deducted and the remaining amount would be paid by the respondents jointly and severely within two months, failing which the appellants would be entitled to interest @ 6% from the date of filing of the appeal till realization.

With the aforesaid modification in the impugned award, the appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

January 28, 2015
sunil