

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2116 of 2001 (O&M)

Date of Decision: January 15, 2015

Baldev Kaur and another

...Appellant(s)

Versus

Inderjeet 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? No

Present: Mr. G.S. Bhatia, Advocate
for the appellants.

Mr. Rajbir Singh, Advocate for
Mr. Gopal Mittal, Advocate
for respondent No.3-Insurance Company.

ANITA CHAUDHRY, J.

1. This is the claimants' appeal seeking enhancement of the compensation allowed vide award dated 06.02.2001, by the Motor Accident Claims Tribunal, Patiala (here-in-after referred to as the Tribunal).

2. Briefly narrating the facts: Jagdish Singh met with an accident on 05.07.1998 which proved fatal. The claimants pleaded that he was an agriculturist and owned 14 acres of land and sold milk and was earning Rs.7,000/- per month and his total income was Rs.10,000/- per month. The Tribunal found that no evidence had been led to show that the deceased owned any land or was running a dairy farm or had an income of Rs.10,000/- per month.

The income of the deceased was taken as Rs.3,000/- per month and after deducting 1/3rd as personal expenses, Rs.2,000/- was considered to be the contribution he was making to his family and after applying the multiplier of 11, the compensation was calculated at Rs.2,64,000/-. A sum of Rs.5,000/- was awarded towards funeral expenses and a sum of Rs.6,000/- was added for repair of the motorcycle. In all, a sum of Rs.2,75,000/- was granted.

3. The submission made on behalf of the claimants-appellants is that the income of Rs.3,000/- per month taken by the Tribunal was on the lower side and the deceased was an agriculturist and a person who owned 14 acres of land would have a much higher income. It was urged that since the minimum wages have been taken as income for the deceased then there should be an addition in the income as per Reshma Kumari's case. It was urged that since the deceased was below 50 years of age then there should be an addition of 30% and a sum of Rs.25,000/- should be allowed as funeral expenses and Rs.1,00,000/- for loss of love and affection for the children. Reliance was placed upon ***Smt. Savita Vs. Bindar Singh and others 2014(2) RCR (Civil) 473, Pushkar Mehra Vs. Brij Mohan Kushwaha and others 2014(2) RCR (Civil) 4 and Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another 2009(3) RCR (Civil) 77.***

4. The submission on the other hand was that the

minimum wages in Punjab in the year 1998 were not more than Rs.1400/- - Rs.1500/- per month and the Tribunal had already taken a higher amount which is nearly double the amount of minimum wages and while assessing compensation, the year of accident is important. It was urged that Savita's case (supra) referred to by the appellants related to an accident which occurred in 2010 and there can be no comparison.

5. In Sarla Verma's case (supra), the Hon'ble Apex Court had ruled that in the cases of persons on fixed salary or those who were self-employed and there was no provision of annual increment, there should be an addition of income and the Courts while fixing a just compensation would add a certain percentage towards future prospects.

6. I would make no change in the income since there was no appeal by the insurance company. An addition can be made with respect to future prospects and in this case, I would add 30% which would raise the income to Rs.3,900/- per month and after deducting 1/3rd towards personal expenses, the amount available for the family would be Rs.2,600/- per month and the annual contribution would come to Rs.31,200/-. After applying the multiplier of 13, the compensation would work out to Rs.4,05,600/. To this, a sum of Rs.5,000/- is added towards loss of consortium and a sum of Rs.5,000/- is added for loss of love and affection. The Tribunal had already added the funeral expenses. The total of the above would come to Rs.4,15,600/-. The Tribunal had awarded

Rs.2,64,000/- as compensation for the death which shall be deducted and the remaining amount shall be paid to the appellants in the same ratio as awarded by the Tribunal within two months, failing which the appellants would be entitled to interest as awarded by the Tribunal from the date of filing of the appeal, till realization.

(ANITA CHAUDHRY)
JUDGE

January 15, 2015
sunil