IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1774 of 2003 (O&M)
Date of Decision:21.02.2015

Anita and others

….Appellants

Versus

Rajesh and others

….Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present: Mr. Sagar Aggarwal, Advocate for
Mr. Ashit Malik, Advocate for the appellants.

Mr. R.M. Suri, Advocate for
Mr. Navin Kapur, Advocate for respondent No.3-
Oriental Insurance Company Ltd.

NAVITA SINGH, J.

1. This appeal is preferred against the award dated 4.12.2002 passed by Motor Accident Claims Tribunal, Sonepat (Tribunal for short), whereby compensation to the tune of Rs.9,02,440/- was granted to the appellants on account of death of Rajbir Singh. They sought enhancement of compensation.

2. Counsel for the appellants argued that the deceased was in permanent job working as UDC with the Haryana Vidhyut Board and, therefore, the Tribunal was to add 30% to the income towards the future prospects. The age of the deceased was 43 years as per the certificate Ex.P6 produced by the appellants. It was then contended that deduction for personal living expenses should have been made to the extent of 1/4th and not 1/3rd because there were the widow and three minor children in the family besides the deceased. The next contention was that a meager amount of Rs.5000/- was given towards loss of consortium to the widow and only Rs.2000/- was given for funeral and last rites expenses. Nothing was given to the children for loss of love and affection.

3. Counsel for the Insurance Company, however, pointed out that if the court was inclined to make enhancement, then the order passed in the Lok Adalat on 29.8.2012 may be kept in mind because there was a proposal for enhancing the compensation by Rs.3,00,000/-. If any enhancement was to be made, it should be maximum to the tune of Rs.3,00,000/- and interest may be awarded.

4. So far as the proposal before the Lok Adalat is concerned, the same did not materialize. Now, after being heard on merits, the appellants withdrew the offer. Also it was mentioned by the Lok Adalat that after eleven adjournments were granted to learned counsel for the Insurance Company to get concurrence from the concerned quarters, nothing was done. It was, therefore, observed that the Insurance Company was not prepared to grant approval to the proposed enhancement. The said proposal, therefore, need not be considered by this Court, especially in view of the conduct of the Insurance Company.

5. Regarding the aspects pointed out by learned counsel for the appellants, the other side had no counter argument. Since the deceased was in permanent job with increments, compensation towards future prospects should have been awarded. The deduction for personal living expenses should also have been as propounded by the appellants. The conventional heads also were not considered properly by the Tribunal and adequate compensation was not given.

6. It is, therefore, held that since the income of the deceased was proved to be Rs.7462/- per month as per record from his office, 30% should have been added towards future prospects. In such event, the income would come to Rs.9700/-. The deduction to the extent of 1/4th is required to be made. The

income for computing compensation would, therefore, be Rs.7275/-. The compensation under that head would be Rs.12,22,200/-.

7. Regarding other heads, the widow is held entitled to an amount of Rs.1,00,000/- towards loss of consortium, an amount of Rs.15,000/- is awarded for funeral and last rites expenses including the amount already awarded, while for loss of love and affection, an amount of Rs.50,000/- is awarded to the minor children. Thus the total compensation will now be Rs.13,87,200/-. Enhanced amount shall get interest at the rate of 6% per annum.

8. The appeal is allowed in the above terms.

(NAVITA SINGH)
JUDGE

21.02.2015
Ishwar

Whether to be referred to reporter: Yes