IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.5267 of 2002

Date of decision: 20th January, 2015

Allabandi and others

… Appellants

Versus

Manphool and others

… Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Ram Bilas Gupta, Advocate
for the appellants.

None for respondents No.1 and 2.

Respondent No.3 – ex parte.

FATEH DEEP SINGH, J.

Appellant/claimants are aggrieved over the findings by way of Award of learned Motor Accident Claims Tribunal, Bhiwani dated 03.04.2002 awarding compensation to the tune of ₹1,80,000 along with interest to the claimants.

Heard Mr. Ram Bilas Gupta, Advocate for the claimant/appellants.

The respondents have not assailed findings of the learned Tribunal qua issue No.1 whereby it was held that driver of the offending tractor bearing registration No.HR-21A-8293 namely

Raghbir Singh by his rash and negligent driving of the offending tractor had caused the accident in the area of village Titani hitting the matador bearing No.HR-21A-4161 on which the deceased Mehardin was travelling with others.

It is not controverted that Mehardin was aged around 30 years and was working as a labourer. The learned Tribunal in view of the avocation of the deceased has taken his income to be ₹15,000 per annum and deducted 1/3 out of these earnings for his own upkeep and maintenance which is certainly contrary to the law. Having regard to the notified rates of daily-wages at the time of this accident, it would be appropriate to hold that the deceased in all likelihood must be earning ₹2,200 per month and keeping in view that the deceased has left behind three minor children, a young widow, in all six family members and therefore deduction of 1/5 out of the total earnings keeping in view the socio economic status would be the most appropriate and therefore, the deceased in all likelihood must be contributing ₹1,760 per month to the running of the household and therefore, annual dependency comes to ₹21,120.

Keeping in view the age of the deceased and in the light of ratio laid down in **'Sarla Verma & others v. Delhi Transport Corporation & another'** reported in **2009(6) SCC 121,** multiplier of 17 needs to be applied and which has been rightly done so by the learned Tribunal and therefore, compensation comes to ₹3,59,040.

The family must have spent money on the last rites and ceremonies of the deceased besides the fact that the deceased has left behind minor children who are unable to fend for themselves and that being the sole bread-earner of the family must have brought about miseries for the family besides loss of love, affection and protection. Though not much evidence has been led on that score, however, by some amount of guesswork and hypothetical assessment and keeping in view the welfare nature of the Statute ₹2.00 lacs is awarded under all these conventional heads including loss of consortium to the wife. Thus, total compensation comes to ₹5,59,040 (rupees five lacs fifty nine thousand forty).

Learned Tribunal has taken a purely lackadaisical approach in the matter and has failed to award adequate compensation under these conventional heads and thus, has resulted in this low computation of compensation.

Besides this, the claimants are also entitled to interest @7.5% p.a. on the enhanced amount from the date of filing of the appeal till realization. Interim compensation paid, if any, shall be adjusted. If any of the minor claimants has attained the age of majority, his/her share shall not be resorted to by way of FDR. Rest of the stipulations laid down by the Tribunal need not be disturbed.

In the light of foregoing discussions, the impugned Award is modified by way of acceptance of the present appeal to that extent.

(FATEH DEEP SINGH)
JUDGE

January 20, 2015
rps