IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2314 of 2003 (O&M)
Date of Decision:15.01.2015

Sarla Rani and others

....Appellants

Versus

Charan Singh and another

....Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present: Mr. Atul Gaur, Advocate for
Mr. Sameer Rathaur, Advocate for the appellants.

Mr. R.C. Kapoor, Advocate for respondent No.2-
New India Assurance Company Ltd.

NAVITA SINGH, J.

1. The appeal is filed for enhancement of the compensation granted to the appellants for the death of Sunder Lal in a motor vehicle accident, which had taken place on 13.8.2000.

2. The Tribunal awarded an amount of Rs.2,52,000/- on the basis of the income assessed at Rs.2100/- per month. An amount of Rs.5000/- was granted cumulatively for loss of consortium and funeral expenses.

3. Learned counsel for the appellants argued that the age of the deceased was wrongly calculated by the Tribunal from the evidence because it was mentioned that his widow stated that she was married to the deceased when she was 18 years old and her marriage lasted with him for about 12 years. He was about 1-1/2 years older to her. In such event, the age of the deceased could not have been more than 40 years and rather it should have been more than 30 years. This part is not disputed by the other side. It is held that the age was

between 31 and 35 years and in view of the age of the deceased multiplier of 16 would be applicable.

4. So far as the income is concerned, there was no proof that the deceased was working in a private firm as Accountant with monthly salary of Rs.4500/-. PW2-Vinod Kumar appeared from some firm and stated that the deceased was working with them and brought the salary certificate which was produced as Ex.P1. However, no record of the firm was produced to show that the deceased was appointed by the firm and was being paid salary regularly. Books of account, attendance register or other related record were not brought. Merely preparing a document as salary certificate and producing it would not be sufficient proof of salary. The Tribunal rightly discarded the evidence and held that deceased was a labourer and took his income according to the wages prevalent at that time.

5. Counsel for the appellants then argued that there were five members in the family of the deceased besides himself but deduction was made only to the extent of 1/3rd for personal living expenses whereas it should have been 1/4th. This argument is also convincing and it is, therefore, held that deduction is required to be made to the extent of 1/4th. The compensation on account of the income would, therefore, be Rs.3,02,400/-.

6. So far as the conventional heads are concerned, loss of consortium to the widow is awarded at Rs.1,00,000/-. The amount of Rs.5,000/- awarded for consortium and funeral expenses shall be taken to be the amount for funeral expenses alone as at that time nothing more than that must have been spent by the family of the deceased who died in the year 2000. For loss of love and affection to the minor children, an amount of Rs.50,000/- is awarded. The total compensation would, therefore, be Rs.4,57,400/-.

7. The appeal is disposed of in the above terms.

(NAVITA SINGH)
JUDGE

15.01.2015
Ishwar

Whether to be referred to reporter: Yes