

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

F.A.O. No. 5513 of 2005

Date of decision : January 14, 2015

Jeet Kumari and others

....Appellants

versus

Hukam Chand and others

....Respondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Narinder Singh Dhillon, Advocate, for the appellants

Mr. Lalit Garg, Advocate, for respondent no. 4 – Insurance Company

Fateh Deep Singh, J. (Oral)

The claimants are up in this appeal challenging award dated 17.8.2005 passed by Motor Accident Claims Tribunal, Kurukshetra regarding death of Sher Bahadur in a motor vehicular accident that took place on 23.3.2004, for which the learned Tribunal has awarded Rs 9,45,500/- along with interest @ 7.5% per annum.

The sole ground agitated by Mr. Narinder Singh Dhillon, Advocate for the appellants is over the denial of fair and just compensation

to the appellants and which is sought to be refuted by Mr. Lalit Garg, Advocate on behalf of the insurer respondent no. 4. Appreciating the submissions, the inter-se relationship of the deceased and the claimants is not at all refuted. The deceased as per the evidence led on the record was aged around 40 years and was working as Assistant Lineman (ALM) with UBHVN, Pehowa. The claimants through deposition of PW1 Jeet Kumari the widow though has claimed that the deceased was aged around 40 years but his date of birth as has been noted by the Tribunal in his service record is 18.2.1959 and thus was around 45 years of age. It could not be refuted by the appellants as to this age as there is an observation of the Tribunal that the post mortem did not carry the age of the deceased. The salary certificate Ex. P1 depicts the salary of the deceased to be Rs 8091/- per month. The Tribunal has rightly deducted 1/4th which is commensurate with the number of family members and considering the earnings to be Rs 6000/- per month and by applying multiplier of 12, has awarded compensation to the tune of Rs 9,36,000/- but failed to take cognizance of the fact that the widow has lost her husband, the minor children their father a source of love and affection together with the expenses incurred on the last rites and ceremonies and by some amount of guess and hypothetical calculations, a sum of Rs 1,50,000/- is allowed under these conventional heads and therefore, total compensation comes to Rs 10,86,000/- (Rs Ten lacs and

eighty six thousand only) which could not be taken account of by the Tribunal and thus has fallen into an error. Rest of the stipulations need not be disturbed including rate of interest. Interim compensation paid, if any, shall be adjusted. Shares of claimants who have become major shall not be put up by way of FDR.

With the aforesaid modification in the impugned award, the appeal stands allowed in those terms. No costs.

January 14, 2015

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**(Fateh Deep Singh)
Judge**