In the High Court of Punjab and Haryana at Chandigarh

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F.A.O. No.4551 of 2006 (O&M)

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Date of decision:5.8.2015

Sham Sunder Dhanda and another

.....Appellants

v.

State of Punjab and others

.....Respondents

....

Coram : Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Satinder Khanna, Advocate for the appellants.

Mr. N.K. Verma, Senior Deputy Advocate General, Punjab for respondents No.1 and 2.

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Inderjit Singh, J.

This appeal has been filed by Sham Sunder Dhanda and Ankur Dhanda-appellants/claimants against State of Punjab, Punjab Roadways, Ferozepur Depot, Gurnek Singh-driver and Krishna-respondents for enhancement from compensation of ₹6,35,000/- along with interest @7.5% per annum from the date of filing of petition till realization awarded by the Motor Accident Claims Tribunal, Ludhiana, vide award dated 31.5.2006.

The brief facts of the case are that on 4.7.2002, Meenu Dhanda along with other residents of Jagraon started for Dera Baba Bhadbhag Singh on Tata-407 bearing registration No.PB-10S-9730, which was being driven by Sital Singh on the left side of the road from Jagraon to Ludhiana. It was

2.40 p.m., they reached opposite Sartaj Palace, Near Sacred Heart Convent School on Ferozepur Road, Jagraon, a bus bearing registration No.PB-12C-9350 (hereinafter referred to as `the offending bus') came from the opposite side which was being driven rashly and negligently by its driver Gurnek Singh and struck against the above said Tata 407 by coming on the wrong side of the road. Consequently, all the occupants of Tata 407 received injuries. Meenu Dhanda succumbed to her injuries. An FIR was also registered against Gurnek Singh, driver of the bus at Police Station Jagraon. The claimants are the legal representatives of deceased Meenu Dhanda being husband and minor son. She was 29 years old and was a housewife. Besides, being housewife, she was carrying on the business of sale and purchase of shares. She was income tax assessee. She was earning ₹10,000/- per month. So, they have prayed that they are entitled for compensation from the respondents.

The respondents put in appearance and contested the claim petition filed by the claimants. After framing the issues and the parties led their evidence, the Tribunal awarded compensation of ₹6,35,000/- to the claimants after taking the income of the deceased as ₹88,075/- per annum as reflected in her income tax return. The multiplier of nine has been applied in this case and the compensation has been computed as ₹5,29,182/-. After taking into account funeral expenses and loss of consortium and medical expenses, the total compensation has been awarded as ₹6,35,000/- along with interest @ 7.5% per annum. Aggrieved against this award, the present appeal has been filed by the claimants.

Notice of this appeal was given to the respondents. Mr. N.K. Verma, learned Senior Deputy Advocate General, Punjab has put in appearance on behalf of respondents No.1 and 2 and contested this appeal. Respondent No.3-Gurnek Singh-Driver has since expired.

After hearing learned counsel for the appellants and the learned State counsel, I find that Meenu Dhanda was receiving the income from the partnership firm having shares. In this case, the Tribunal has correctly taken the income as per the income-tax return as ₹88,075/- per annum and after 1/3rd deduction assessed her income as ₹58,798/- per annum, but the Tribunal has wrongly applied the multiplier of nine and further has not granted adequate compensation on the ground of loss of consortium, loss of love and affection, funeral expenses.

Therefore, from the above, I find that the claimants/appellants are entitled to the compensation as under:-

(1) Income of the deceased assessed per annum	:₹88,075/-
(2) After making 1/3rd deduction @	:₹29,358/-,
the dependency per annum comes to	:₹58,717/-
which is rounded off to ₹58,800/-	
(3) After applying multiplier of 17, the dependency comes to 58,800 x 17	:₹9,99,600/-
(4) Loss of consortium to wife	:₹1,00,000/-
(5) Funeral expenses	:₹ 25,000/-
(6) Loss of love and affection to child	:₹1,00,000/-
Total compensation comes to	:₹12,24,600/-

Therefore, the appellants are entitled to compensation of ₹12,24,600/- instead of ₹6,35,000/-. The appellants are also entitled to interest and share as awarded by the Tribunal on the enhanced amount also from the date of the claim petition till actual payment. The Insurance Company is directed to pay the enhanced amount of compensation to the appellants accordingly.

The appeal is disposed of accordingly.

August 5, 2015. **(Inderjit Singh)**
Judge

hsp