IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2051 of 2010 (O&M)
Date of Decision: January 29, 2010

Sumitra Devi and others

...Appellant(s)

Versus

Amit and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? No

Present: Mr. Anil Kumar Gahlawat, Advocate
for the appellants.

Mr. Eklavya Darshi, Advocate
for respondent no.3.

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ANITA CHAUDHRY, J.

CM-9643-CII-2010

1. For the reasons set out in the application, same is allowed and delay of 37 days in re-filing the appeal is condoned.

CM-9644-CII-2010

2. For the reasons set out in the application, which is supported by an affidavit, same is allowed and delay of 41 days in filing the appeal is condoned.

FAO No.2051 of 2010

3. This appeal is by the claimants seeking enhancement in the award dated 30.04.2009, passed by the Motor Accident Claims Tribunal, Rohtak (here-in-after referred to as the Tribunal).

4. Referring to the brief facts first; an accident took place on 13.06.2007 leading to the death of Om Parkash and Jai Bhagwan. Two claim petitions were filed which were decided by a common award. This appeal is by the legal heirs of Jai Bhagwan, therefore, reference is only made to his facts. Jai Bhagwan was a helper in Haryana Co-operative Sugar Mills, Rohtak and was 46 years old and his monthly income was Rs.8,534/-. The insurance company relied on the Haryana Compassionate Assistance to the Dependants of Deceased Government Employees Rules, 2006 and the Tribunal referred to the provisions and awarded a lump sum amount of Rs.4,00,000/- on the head of promotional chances and for loss of love and affection.

5. The submission made on behalf of the appellants is that the Rules were not applicable to dependants of deceased co-operative sugar mill employees and till date they have not received any benefit under the policy and a ground in this regard had been raised in the appeal and they had collected information under R.T.I. Act which they were placing on record and the State Public Officer, Haryana in its reply dated 01.04.2013 had mentioned that the Scheme was not applicable to the dependants of an employee who were working with the Sugar Mill as no pension was payable to the mill employees. It was urged that the compensation has to be granted as per the decision of ***Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another 2009(6) SCC 121*** and an addition of 30% should be made in the income to calculate the loss. It was urged that they were also entitled to compensation for loss of consortium, loss of love and affection and funeral expenses.

6. A perusal of the award shows that the Tribunal though referred to the Scheme of the Haryana Government but failed to compute the compensation. The Division Bench of this Court had approved the view taken in ***Oriental Insurance Company Ltd. Vs. Saroj Devi & others 2013(2) RCR (Civil),*** while calculating compensation for the dependants of the deceased employee but the question here is whether the scheme was applicable to the dependants of the employee working with the Co-operative Sugar Mill.

7. The appellants had filed an application under the RTI Act and the Public Information Officer in its reply had stated that the Scheme was not applicable to the employees of the sugar mill. There is nothing contrary from the side of the respondents, therefore, compensation has to be calculated as per Sarla Verma's case (supra). The deceased was getting salary of Rs.8,534/- per month. An addition of 30% has to be made towards future prospects which would increase the salary to Rs.11,094/-. A deduction of 1/3rd should be made towards personal expenses and the amount available for the family would be Rs.7,396/- per month and the annual contribution would come to Rs.88,752/-. Considering the age of the deceased, a multiplier of 13 would be applicable and the compensation would come to Rs.11,53,776/-. To this, a sum of Rs.10,000/- should be added as funeral expenses, a sum of Rs.25,000/- should be added as loss of consortium and a sum of Rs.25,000/- should be added for loss of estate. The total comes to Rs.12,13,776/-. The Tribunal had awarded Rs.4,00,000/- which would be deducted and the balance

amount shall be payable by the insurance company within two months failing which the appellants would be entitled to interest @ 6% from the date of filing of the appeal till realization. The amount would be shared in the same ratio as allowed by the Tribunal.

(ANITA CHAUDHRY)
JUDGE

January 29, 2015
sunil