205.

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5907 of 2010 (O&M)
Date of decision: 17.12.2015

Smt. Madhulata and others ... Appellants

versus

Salim and others .... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Sanjeev Roy, Advocate,
for Mr. Shiv Kumar, Advocate,
for the appellants.

Mr. R.C. Gupta, Advocate,
for respondent No.3.

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

K.Kannan, J. *(Oral)*

1. The appeal is by the claimants seeking for enhancement of compensation for death of a male aged 43 year. He was said to be a proprietor of a small business called "JMD Enterprises". The income tax returns filed by the deceased during his lifetime showed a gross income of ₹87,000 and odd and posthumously, the income tax returns filed for 2005-06 showed the income of ₹1,74,900/-. The court discarded the posthumous return to the income at ₹90,000/-

and determined ₹9,45,000/- as payable for the claimants pursued by the wife, 2 children and mother.

2. I will not find any error in the court rejecting the evidentiary value of the document that was submitted after his death and I will take the income estimated by the Tribunal at ₹90,000/- per year as aggregate but will also provide for 30% increase on the same, making a deduction of 1/4th and making provision for loss of consortium and loss of love and affection at ₹1 lakh each for the wife and children and ₹50,000/- for the mother. The various heads of claims are tabulated as under:-

Accident	05.10.2006		
Age	43		
Occupation	Prop. JMD Enterprises		
Claimants	Wife, 2 children and mother		
	Heads of claim	**Tribunal**	**High Court**
Sr. No.		Amount (₹)	Amount (₹)
1.	Income		90,000
2.	Add,% of increase 30%/50%		1,17,000
3.	Deduction ¼		87,750
4.	Multiplicand		87,750
5.	Multiplier		14
6.	Loss of dependence		12,28,500
7.	Medical expenses		
8.	Loss of consortium		1,00,000
9.	Loss of love and affection		2,50,000
10.	Loss to estate		10,000
11.	Funeral expenses		5,000
	Total	9,45,000	15,93,500

3. There shall be an award of ₹,15,93,500/- and the amount in excess of what has been determined already will attract interest at

7.5% from the date of petition till date of payment. The liability initially shall be on the insurer which will have a right of recovery against the owner and driver in the manner provided by the Tribunal. Owner and driver remained ex parte before the court and hence, notice to them dispense with. The additional compensation shall be distributed amongst the wife, children and mother in the ratio of 2:2:2:1.

4. The award stands modified and the appeal is allowed to the above extent.

(K.KANNAN)
JUDGE

17.12.2015
sanjeev