

THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 5297 of 2012

Date of decision : 02.02.2015

Jagdish Chand and others

.....Appellants

Versus

Ishwar Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of the local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Tapan Kumar Yadav, Advocate
for the appellants

Mr. A.K. Bishnoi, Advocate
for respondent No. 2

Mrs. Shamsheer Kaur, Advocate
for respondent No. 3

ANITA CHAUDHRY, J.

This appeal is by the claimants seeking enhancement in the award dated 30.08.2011 passed by the Motor Accident Claims Tribunal, Palwal.

An accident took place on 24.11.2009 which led to institution of several claim petitions. One petition was filed by Jagdish Chand and others, the appellants before this Court. The appellants are seeking enhancement of the compensation allowed for the death of Shanti.

The claimants had pleaded that Shanti used to do

agricultural and labour work. As there was no proof regarding the income, she was taken to be a housewife rendering household services. Her contribution was taken at ₹ 3000/- per month. The Tribunal found the age in the postmortem report to be 52 years. A deduction of 1/4th was made and the compensation was calculated applying the multiplier of 11 in terms of the law laid down by Hon'ble Supreme Court in ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 ACJ 1298.***

The main submission made on behalf of the appellants was that if the deceased was taken to be a housewife/mother rendering house hold services to the family then there should have been no deduction. Learned counsel for the appellants further contended that it was wrongly held to be a case of contributory negligence and there was no evidence. He had further contended that the amount awarded as compensation for loss of consortium and funeral expenses is on the lower side.

The submission on the other hand was that FAO No. 1265 of 2012 titled as *Gulkandi Devi and others vs. Ishwar Singh and others* filed by some other claimants had been disposed of on 11.10.2012 and the award had been maintained and the appeal was dismissed.

So far as the finding on the contributory negligence is concerned the Tribunal had dealt with the issue in detail and I find no infirmity. So far as the deduction towards personal expense is concerned there is merit, as Shanti was considered to be a housewife rendering household services, there could have been no deduction

and the compensation should have been calculated taking the services at ₹ 3,000/- per month and the compensation should have been ₹ 3,000 x 12 x 11 = Rs. 3,96,000/-. So far as the other heads are concerned, I am of the view that the amount awarded was adequate and no change is required.

Consequently, it is held that the appellants are entitled to an additional amount of ₹ 96,000/-. As the finding on contributory negligence has been upheld 70% of this amount shall be paid by the respondents as directed by the Tribunal. The amount would be payable within two months failing which the claimants shall be entitled to interest @ 6% from the date of filing of the appeal till realization.

02.02.2015

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(ANITA CHAUDHRY)
JUDGE