IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1867 of 2013 (O&M)
Date of Decision:19.02.2015

Smt. Neelam and others

….Appellants

Versus

Naresh Kumar and others

….Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present: Mr. Sumit Sangwan, Advocate for the appellants.

Mr. Gopal Mittal, Advocate for respondent No.3-
United India Insurance Company Ltd.

NAVITA SINGH, J.

1. This appeal is filed against the award dated 16.1.2013 passed by Motor Accident Claims Tribunal, Bhiwani (Tribunal for short), whereby compensation to the tune of Rs.7,11,200/- was awarded to the appellants on account of death of Sandeep in a motor vehicle accident which took place on 27.11.2010. They sought enhancement of the compensation amount.

2. It may be mentioned that before the Lok Adalat the appellants had demanded enhancement by Rs.3,40,000/- whereas the counter offer of the Insurance Company was of Rs.2,00,000/-. Settlement could not be made. Learned counsel for the Insurance Company contended that something midway, may be awarded. However, since the appeal is now being heard on merits, order will be passed according to the entitlement of the appellants as per law.

3. Counsel for the appellants argued that the deceased was an agriculturist and was a dairy farmer but nothing was awarded towards future prospects.

4. Counsel for the Insurance Company argued that the deceased was self employed and thus the Tribunal rightly declined such addition. The deceased was alleged to be an agriculturist and also running a dairy, regarding which it may be said that future prospects need not be awarded; firstly because the deceased was self employed and that point has not been finally settled by the Supreme Court as yet and secondly because the income from agriculture and dairy was available to the family even after the death of Sandeep.

5. Counsel for the appellants then argued that nothing was awarded to the minor children for the loss of love and affection and the deduction for personal living expenses was made by the Tribunal to the extent of 1/3rd, though there were four members in the family besides the deceased. Deduction should have been made to the extent of 1/4th. The last contention on behalf of the appellants was that an amount of Rs.20,000/- was paid cumulatively for loss of consortium to the widow, loss of estate and funeral expenses, which was not even pittance.

6. So far as the deduction of expenses on the deceased himself was concerned, the contention of the appellants is acceptable and it is held that deduction would be made to the extent of 1/4th. The income of the deceased was Rs.4800/- per month and, therefore, annual dependency regarding appellants would come to Rs.43,200/-. Multiplier of 18 was rightly applied. Compensation on account of income would, therefore, be Rs.7,77,600/-. This court quite agrees with the appellants in their plea that the amount of Rs.20,000/- granted for loss of consortium, loss of estate/income and funeral expenses was highly inadequate. The widow is held entitled to consortium to the tune of Rs.1,00,000/-. For loss of love and affection to the minor children, an amount of Rs.50,000/- is awarded. Regarding loss of estate and funeral expenses, an

amount of Rs.25,000/- is awarded. The total amount under said heads will now come to Rs.1,75,000/-, which includes the amount of Rs.20,000/- already awarded.

7. The appeal is partly allowed holding the appellants to be entitled to receive compensation of Rs.9,52,600/-. Enhanced amount shall fetch interest at the rate of 6% per annum.

(NAVITA SINGH)
JUDGE

19.02.2015
Ishwar

Whether to be referred to reporter: Yes