IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.2414 of 2013

Date of decision: 27th January, 2015

Kamla Parshad and others

… Appellants

Versus

Kuldip Singh and others

… Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

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

Present: Ms. Ekta Thakur, Advocate for the appellants.

Respondents No.1 and 2 – ex parte.

Ms. Shamsher Kaur, Advocate for respondent No.3.

FATEH DEEP SINGH, J.

Challenge in this appeal is by the claimants to an Award of learned Motor Accident Claims Tribunal, Chandigarh dated 06.12.2012 whereby through the impugned findings a sum of ₹5,74,000 was allowed along with interest on the claim of the claimants for the accidental death of Kankar Parshad. The appellants are the father, brother and widow of the deceased who was undisputedly working as a Mason and was aged around 30 years.

Findings of the learned Tribunal qua issue No.1 as to the cause of the death holding that the accidental death was due to rash and negligent driving of the offending vehicle bearing registration No.CH-01-TA-8141 by its driver respondent Kuldip Singh and which has never been assailed of and thus, has attained finality.

Upon hearing Ms. Ekta Thakur, Advocate for the claimant/appellants, Ms. Shamsher Kaur, Advocate for the insurer/respondent No.3 and on perusal of the records.

It is not put to question that the deceased was a Mason and the learned Tribunal has considered his earnings to be ₹4,000 per month which could not be disputed and appears to be just and equitable keeping in view the then prevalent wages of a semi-skilled labourer at the time of his death. Learned Tribunal has rightly applied the multiplier of 17 but as has been argued on behalf of the appellants has wrongly deducted 1/3 of the income for personal expenses. Keeping in view the number of dependents and the socio-economic status of the deceased and his family in view of **'New India Assurance Company Ltd. v. Gopali and others'** reported in **2012 (3) RCR (Civil) 818,** 1/4 needs to be deducted and thus, the deceased in all likelihood must be contributing ₹3,000 to the running of the household which is a reasonable amount and therefore, annual dependency comes to ₹36,000 and applying the multiplier of 17 the compensation comes to ₹6,12,000 and thus, reflects how the learned Tribunal has erred in computing the amount of compensation. The arguments on behalf of the appellants could not be controverted that there has been mere pittance for the funeral expenses and under the other heads including loss of consortium, loss of love and affection etc. and which could not be controverted by the respondent side through Ms. Shamsher Kaur, Advocate representing the insurer. Since the Act is a welfare Statute for betterment of the claimants, considering that the wife has lost her husband at a young age, father has lost his son in his old age, a source of love and affection for everyone in the family and though not much is available by way of evidence however, under all these conventional heads a sum of ₹2.00 lacs is awarded and therefore, total compensation comes to ₹8,12,000 (rupees eight lacs twelve thousand only). Thus, apparently the impugned Award is not just and equitable and needs to be modified. Besides this, the claimants shall also be entitled to interest @7.5% p.a. on the enhanced amount from the date of filing of the appeal till realization. Interim compensation paid, if any, shall be adjusted. Rest of the stipulations laid down by the Tribunal need not be disturbed.

No other argument has been raised.

In the light of these modifications in the impugned Award, the present appeal stands allowed in those terms.

(FATEH DEEP SINGH)
JUDGE

January 27, 2015
rps