IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1294 of 2014 (O&M)
Date of Decision:6.10.2015

Nunmati Devi alias Sudha Devi and others

….Appellants

Versus

Pardeep alias Vikas and others

….Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Argued by: Mr. R.S. Mamli, Advocate for the appellants.
Mr. Suvir Dewan, Advocate for respondent No.3-United India Insurance Company Ltd.

NAVITA SINGH, J.

1. This appeal is preferred against award dated 21.08.2013 passed by Motor Accident Claims Tribunal, Yamunanagar at Jagadhri (Tribunal for short) granting compensation to the tune of Rs.22,63,520/- to the appellants on account of death of Lallan Kumar, husband of appellant No.1, father of appellants No.2 to 4, in a motor vehicle accident which took place on 24.08.2011.

2. On 24.08.2011 near Bus Stand, Jagadhri, when deceased was going towards Food Corporation of India godown (FCI for short), where he was employed, on foot on the left side of the road, a car bearing No.HR-02X-0535, driven by respondent No.1, came in a rash and negligent manner and hit the deceased. He received multiple injuries and was taken to Jindal Hospital, Jagadhri where he died. His age at the relevant time was 38 years and he being an employee of FCI was drawing salary of Rs.5,00,000/- per annum. Compensation to the tune of Rs.22,63,520/- was awarded by the Tribunal.

3. Counsel for the appellant contended that the short point involved was that despite the salary of the deceased being proved on record, deduction was made in the same and his salary was taken to be Rs.18,696/- per month, which was the carry home salary. After deduction of 1/3rd for personal expenses, the income of the deceased for the purpose of awarding compensation was

taken to be Rs.12,464/- per month. Counsel for the appellant further contended that deduction of 1/4th instead of 1/3rd should have been made from the salary of the deceased, as there were four family members besides the deceased.

4. Counsel for the appellant relied on Vimal Kanwar and others vs. Kishore Dan and others, 2013(2) RCR(C) 945 in which it was held that provident fund of the deceased and insurance receivable by the claimants were not such benefits as were liable for deduction. The normal salary of the deceased was to be taken on that count. It was argued that taking the salary to be Rs.18,696/-, other entailing benefits could not be denied merely because the family was to get pension and other permissible service benefits.

5. It was argued that since the deceased was employed in a permanent government job, 50% of the salary was to be added towards future prospects as well. The Tribunal denied the benefit erroneously. Since the deceased was in permanent employment, future prospects should not have been denied. The monthly income for the purpose of awarding compensation would, therefore, be Rs.28,044/- including future prospects. Making deduction of 1/4th and applying multiplier of 15, amount would come to Rs.37,85,940/-, say Rs.37,86,000/-. An amount of Rs.10,000/- only was awarded for loss of consortium to the widow. Thus, the amount is enhanced to Rs.1,00,000/-. An amount of Rs.20,000/- is granted as funeral expenses over and above the amount already given. Amount of Rs.1,00,000/- is given for loss of love and affection to minor children to be shared equally. Thus, the total compensation comes to Rs.39,96,000/-. The amount as above which is to be paid by the Insurance Company shall be paid after deducting income-tax.

6. The appeal is disposed of accordingly.

(NAVITA SINGH)
JUDGE

06.10.2015

Ishwar **Whether to be referred to reporter: Yes/No**