

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

F.A.O. No. 3333 of 2014

Date of decision : February 06, 2015

Cholamandalm Ms General Insurance, JalandharAppellant

versus

Jasvir Kaur and othersRespondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Rajneesh Malhotra, Advocate, for the appellant
Mr. C.L. Sharma, Advocate, for respondent nos. 1 to 4
Ms. Manjari Joshi, Advocate, for respondent no. 5
Mr. B.S.Sra, Addl. AG, Punjab for respondent no. 6

Fateh Deep Singh, J. (Oral)

The insurer appellant is against an award dated 8.10.2013 of learned Motor Accident Claims Tribunal, Jalandhar whereby it has awarded compensation to the tune of Rs 57,80,000/- for the death of HC Sukhjinder Singh.

Heard Mr. Rajneesh Malhotra, Advocate, for the appellant, Mr. C.L. Sharma, Advocate, for respondent nos. 1 to 4, Ms. Manjari Joshi, Advocate, for respondent no. 5 and Mr. B.S.Sra, Addl. AG, Punjab for respondent no. 6 and perused the record.

The lone contention on which the counsel for the appellant has argued is over the quantum of compensation. In the light of the arguments of the claimants' counsel Sh. C.L. Sharma, the deceased HC Sukhjinder Singh on the day of accident on the intervening night of 1.4.2011/2.4.2011 was on PCR duty on motorcycle of the police bearing No. 17. At that time his colleague HC Avtar Singh was accompanying him when around 12.50 AM, the offending vehicle Mahindra Tempo No. PB08-BN-9005 being owned and driven rashly and negligently by Advin which hit motorcycle resulting in injuries and death of the deceased. The factum that the deceased was employed as Head Constable and aged around 39 years could not be displaced in the evidence of the respondents and which fact is also reiterated by the widow PW1 Jasvir Kaur by way of affidavit Ex. PA. Though it is claimed that the deceased was earning Rs one lac per month but there is no documentary proof regarding this. There is only salary certificate proved by PW3 Kirpal Singh, Assistant Accountant of the office of Commissioner of Police, Jalandhar Ex. P2 which shows that the deceased was getting gross salary of Rs 28,470/- per month. Though the date of birth proved by way of Ex. PB shows that the deceased was born on 7.1.1972 and therefore, post mortem Ex. P8 which depicts that he was 40 years old, needs to be ignored as it is a common knowledge that such particulars are by an approximation which the doctor writes. The learned Tribunal has taken the

earnings to be Rs 32,000/- per month and has reached the annual dependency to the tune of Rs 3,84,000/-. After applying the multiplier of 15 in view of *Sarla Verma and others versus Delhi Transport Corporation and another, 2009 (6) SCC 121* has arrived at the figure of Rs 57,60,000/-. By this calculation, the learned Tribunal has given an enhanced earnings by 50% in view of *Sarla Verma* (supra) judgment considering the future prospectus. Though none from the side of the claimants have challenged the award as the learned Tribunal has given pittance for the loss of estate, loss of consortium and funeral expenses etc. and therefore, the same cannot be considered and thus in the overall prospective as has been submitted by the counsel claimants, the figure so reached by the Tribunal is thus fair qua the appellants which appellants have failed to displace and therefore, no cause to show indulgence is necessitated.

In view of the aforesaid discussions, having no illegality or perversity in the findings of the learned Tribunal, need to be upheld. The appeal being without any merit stands dismissed.

February 06, 2015
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(Fateh Deep Singh)
Judge