

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 4936 of 2013 (O&M)
Date of decision: February 23, 2015

Amar Singh and another

.....Appellants

versus

Amarjit Singh and others

.....Respondents.

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. K.S. Dhanora, Advocate
for the appellants.

Mr. Rajinder S. Rana, Advocate
for respondents No. 1 and 2.

Mr. Manmohan, Advocate for
Ms. Suman Jain, Advocate
for respondent No.3.

JASPAL SINGH, J

CM No. 29027-CII of 2013

Application is allowed, as prayed for

CM No. 29028-CII of 2013

This is an application seeking condonation of delay in
filing the instant appeal.

In view of averments made in the application duly
supported by an affidavit of Mr. Amar Singh one of the appellants, the
same is allowed and delay in filing the instant appeal is condoned.

CM stands disposed of.

Main Appeal

Aggrieved against the quantum of compensation awarded by learned Motor Accident Claims Tribunal, Kurukshetra (for short "Tribunal") on account of death of Raj Kumari @ Paro in a vehicular accident occurred on April 21, 2012 in the area of Village Dhanuara involving motor cycle No. HR-07-H-5721, appellants have preferred the instant appeal seeking enhancement thereof.

2. The contention of learned counsel for the appellants is that the deceased was 54 years of age at the time of her unfortunate death in accident but prior to that, she was hale and hearty and was running a milk dairy. Though, she was earning ₹10,000/- per month from the said profession yet the learned Tribunal has assessed her income only to the tune of ₹4,000/- per month, which is absolutely against evidence available on file. Similarly, nothing has been awarded by learned Tribunal on account of loss of consortium whereas only a meagre amount of ₹10,000/- has been awarded towards funeral expenses. Amount of compensation awarded by learned Tribunal, thus, deserves to be enhanced.

3. On the other hand, learned counsel for respondents have supported the award and have submitted that just and adequate compensation has already been awarded by learned Tribunal by taking into consideration all the aspects of the case i.e. age and income of the deceased. As such, the impugned award does not call for any interference by this Court.

4. This Court has given an anxious thought to the rival submissions made by learned counsel for the parties and have minutely gone through the record available on the file.

5. Though, it has been alleged and deposed by the appellant/claimant No.1-Amar Singh husband of the deceased that besides, on house-maker deceased was running a milk dairy but after analyzing the evidence brought on record by the claimants, learned Tribunal has come to the conclusion that there is no cogent and convincing evidence that deceased was running any milk dairy or was having any cow or buffalow. Taking into consideration all the aspects dependency has been assessed to the tune of ₹2667/- per month and considering her age which is about 55/56 years, multiplier of 9 has been applied by learned Tribunal which is absolutely justified. Thus, no interference of this Court is justified so far as the assessment of income, as well as the multiplier applied by learned Tribunal is concerned. These observations made by learned Tribunal are upheld.

6. At the same time, this Court cannot lost sight of the fact that no amount has been awarded to the claimants on account of loss of consortium. In view of latest pronouncement captioned as ***Smt. Sarla Verma & others vs. Delhi Transport Corporation and another; 2009 (6) SCC 121***; claimants are entitled to a sum of ₹1,00,000/- on account of loss of consortium and a sum of ₹25,000/- on account of funeral expenses. The learned Tribunal has only paid a sum of ₹10,000/- towards funeral expenses. As such, in toto,

claimants deserves the enhancement of compensation to the tune of ₹1,15,000/- in addition to the amount of compensation i.e. ₹2,98,036/- already awarded by learned Tribunal.

7. In the light of what has been discussed above, the instant appeal is partly allowed and appellants are held entitled to a sum of ₹1,15,000/- in addition to amount of compensation already awarded by learned Tribunal. The respondent No.3 is directed to make the payment of enhanced amount of ₹1,15,000/- within a period of 45 days from the date of receipt of certified copy of this order, failing which, claimants/appellants shall be entitled to interest @ 9% per annum from the date of filing of claim petition till actual realization of enhanced amount. No order as to costs.

(JASPAL SINGH)
JUDGE

February 23, 2015
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- 1. Whether the Reporters of the Local papers may be allowed to see the judgment? Yes**
- 2. To be referred to the Reporters or? Yes**
- 3. Whether the judgment should be reported in the digest? Yes**