IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 4808 of 2006 (O&M)
Date of decision : May 09, 2016

Smt. Kavita Devi and others,

...... Appellants

v.

Salesh Kumar and others,

...... Respondents

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CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

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Present : Mr. Sushil Bhardwaj, Advocate
for the appellants.

Mr. VK Garg, Advocate
for respondent No.3.

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

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Ajay Tewari, J (Oral)

This appeal has been filed for enhancement of compensation. Brief facts are that on 19.7.2005 at about 1.45 pm, Prem Singh, since deceased, was carrying passengers in his auto rickshaw from Assandh road to village Nohara and at about 2 pm, when he reached near Saint Mary School on Assandh road, Panipat, the offending vehicle being driven by respondent No.1 rashly and negligently, directly hit the auto rickshaw by going in the wrong side, and as a result of this accident, the auto rickshaw turned turtle, three passengers died on the spot, while Prem Kumar died in the hospital. The Tribunal held respondent No.1 responsible for causing the accident. Monthly income of the deceased was assessed as ₹ 3000/-, and after applying multiplier as 18, compensation came to ₹ 4,32,000/-. Besides this, ₹ 7370/- as medical expenses, ₹ 15,000/- as transportation charges as as well as last rites, and ₹ 15,000/- towards loss of consortium were awarded.

Counsel for the appellants has argued that even if the income tax returns could not be taken into consideration yet once it was proved that the deceased was a driver, income of ₹ 3,000/- in the year 2005 was highly inadequate. As per the relevant notification of the State of Haryana, income of a skilled labourer in the year 2004 was ₹ 3310/- per month. In these circumstances, it would be safe to take monthly income of ₹ 3400/- in 2005. I order so.

Counsel for respondent No.3 has argued that the Tribunal erred in applying the multiplier of 18 and in view of the decision in Lata Wadhwa Vs. State of Bihar, 2001(8) SCC 197, multiplier should be 17. I find this to be correct and the multiplier in the present case would be 17.

Counsel for the appellants has further argued that since there were four dependents, deduction should be 1/4th. I find this to be correct and hold so. Counsel for the appellants has further argued that lesser amounts have been awarded towards funeral expenses, consortium and nothing has been awarded towards loss of love and affection. I find this also to be correct and consequently award a sum of ₹ 10,000/- more as funeral expenses, and a sum of ₹ 85,000/- more to appellant No.1 as consortium. I further award a sum of ₹ 1 lac each to appellant Nos.1 and 2 towards loss of love and affection, a sum of ₹ 50,000/- to appellant No.3 (minor son), and ₹ 50,000/- to appellant No.4 (mother) towards loss of love and affection. The enhanced amounts would carry interest @ 8% pa from the date of application till the date of payment. Apart from the individual amounts, the entire enhanced amount shall be handed over to appellant No.1. In case, appellants No.2 and 3 have become major, their share shall be handed over to them. As regards the shares of appellant Nos.1 and 4, the same be deposited in a separate fixed deposit for a period of three years in any nationalized bank and they shall be entitled to get quarterly interest.

This appeal stands disposed of.

(AJAY TEWARI)
JUDGE

May 09, 2016
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