IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 5253 of 2014 (O&M)
Date of decision: 07.04.2016

Santosh Devi and others

... Appellants.

versus

Himachal Road Transport Corporation Shimla and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Jagjit Singh Chatrath, Advocate for the appellants.

None for the respondents.

<u>K.Kannan, J</u>. (ORAL)

The appeal is for enhancement of compensation for death of a male aged 42 years who was said to be a commission agent and assessed to income tax. The claimants were widow and two children.

At the trial, the copies of income tax returns have been filed and the witness spoke about the fact that the tax returns filed for the year 2007-08 showed an income tax of Rs. 95,965/-, for the year 2009-10 it was Rs. 1,35,700/- and for the year 2010-11 it was shown as Rs. 1,50,000/-. There is a gradual increase of his income over the period of years. The Tribunal took the income at less than what was shown to be income tax returns and assessed the compensation of Rs. 18, 17, 490/-.

I rework the compensation taking the income to be Rs. 1,60,000/- and make a provision of 30% and apply the multiplier of 14 and determine to the extent of dependency and also provide for Rs. 1,00,000/- each towards the loss of consortium and loss of love and affection.

The various heads of claim are tabulated as under:

<u>Fatal</u>	Date of accident	23-9-2010	
Age	42 years		
Occupation	Commission agent		
Claimants	Widow, 2 children		
SR. No.	**Heads of claim**	**Tribunal Amount (Rs.)**	**High Court Amount (Rs.)**
1	Income		1,60,000/-
2.	Add, % of increase, 30%		2,08,000/-
3.	Deduction, 1/2, 1/3, 1/4,		1,38,666/-
4.	Multiplicand		1,38,666/-
5.	Multiplier		14
6.	Loss of dependence		19,41,3213/-
7.	Medical Expenses		
8.	Loss of Consortium		1,00,000/-
9.	Loss of love and affection		1,00,000/-
10.	Loss to estate		5,000/-
11.	Funeral Expenses		25,000/-
	Total	18, 17,490/-	21,71,324/-

The aggregate of compensation shall be Rs. 21,71,324/- and the amount in excess of what has been already assessed will also attract interest @ 9% from the date of the petition till the date of payment. The amount shall be distributed equally amongst the widow and two children. The minor's share shall be deposited during the period of minority in the Nationalized bank and 75% of the amount will be permitted to be withdrawn after attaining the age of majority. The balance 25% will be split in 3 portions, 1st portion for a period of one, 2nd portion for a period of 2 years and 3rd portion for a period of 3 years. The amounts will be disbursed directly to the parties under advice to the Motor Accident Claims Tribunal. As regards the share of the widow, 50% of the amount shall be permitted to be withdrawn and rest of 50% shall be split into 8 portions, 1st portion for one year, 2nd portion for two years and so on upto 8 years. The amount shall be disbursed directly to the party by the bank under advice to the Motor Accident Claims Tribunal as and when the deposits are matured.

The liability shall be in the manner as assessed by the Tribunal. The award of the Tribunal is modified and the appeal is allowed on the above terms.

(K.KANNAN)
JUDGE

07.04.2016
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