

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**FAO No.8283 of 2014 (O&M)
Decided on: 18.11.2016**

Usha Devi and othersAppellants
Versus
Amarjeet Singh and othersRespondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Nonish Kumar, Advocate for the appellants.

Ms. Sheenu Sura, Advocate for respondent No.3.

REKHA MITTAL, J. (Oral)

CM No.22442-CII of 2014

Prayer in this application is for condoning delay of 15 days
in filing the appeal.

Heard.

In view of averments made in the application supported by
an affidavit of Nonish Kumar, Advocate, the application is allowed and
delay of 15 days in filing the appeal stands condoned.

FAO No.8283 of 2014

The claimants are in appeal seeking enhancement of
compensation in regard to death of Ganga Ram in a motor vehicular
accident that took place on 31.12.2012.

The learned Tribunal assessed income of the deceased at
Rs.4,500/- per month, added 50% increase for future prospects,
deducted 1/4th for personal expenses and adopted a multiplier of 17 to
compute loss of dependency at Rs.10,32,852/-. In addition, an amount
of Rs.50,000/- for loss of consortium, Rs.1,00,000/- for loss of care and
guidance to minor children and Rs.25,000/- for transportation and

funeral expenses was awarded making total compensation to Rs.12,07,852/-.

Counsel for the appellants has submitted that the deceased was working as a guard at a monthly salary of Rs.4,500/- besides doing work of sale of milk and had kept five buffaloes and two cows and was earning Rs.7,000/- from sale of milk. It is further argued that income of the deceased is liable to be enhanced and so also compensation under conventional heads.

Counsel for the insurance company, on the contrary, has refuted plea of the claimants by contending that there is no satisfactory much less cogent and convincing evidence on record to prove that the deceased was either working as a guard at a salary of Rs.4,500/- per month or doing the work of sale of milk and earning Rs.7,000/- per month. It is further argued that self serving statement of widow of the deceased is not sufficient to substantiate plea of the claimants in regard to avocation and income of the deceased as claimants generally have the tendency to inflate figures of income to justify enhanced compensation.

I have heard counsel for the parties and perused the paperbook particularly the award.

The claimants did not examine any witness to prove that the deceased was working as a guard with a particular organization or a person. Similarly, they have not examined any witness to whom the deceased was allegedly selling milk. Plea of the claimants with regard to avocation and income of the deceased does not find corroboration from any independent much less documentary evidence. Under the

circumstances, the Tribunal has rightly assessed income of the deceased by taking a clue from minimum wage admissible to an unskilled worker. Counsel for the appellants has not pointed out any discrepancy with regard to multiplier and deduction allowed by the Tribunal. That being so, findings of the Tribunal with regard to loss of dependency are liable to be affirmed and ordered accordingly.

Under conventional heads, an amount of **Rs.1,00,000/-** for loss of consortium to the widow, **Rs.1,50,000/-** in equal share to the children for loss of love and affection, care and guidance of their father, **Rs.50,000/-** for loss of love and affection to the mother and **Rs.25,000/- each** for expenses on funeral and loss of estate are awarded. The additional amount of compensation under conventional heads comes to Rs.1,75,000/- (Rs.13,82,852/- – Rs.12,07,852/-) payable with interest @ 7.5% per annum from the date of petition till realization.

The additional amount shall be paid exclusively to minor children of the deceased in equal share and shall be deposited in fixed deposit receipts payable on their attaining the age of majority. The interest accruing on fixed deposit receipts shall be payable to mother of the children for meeting expenses on their living and education. The claimants shall not be entitled to raise any loan against the fixed deposit receipts.

The appeal is partly allowed in the aforesaid terms.

18.11.2016
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(REKHA MITTAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No