In the High Court of Punjab and Haryana at Chandigarh

F.A.O No. 1709 of 1992
Date of Decision: 07.11.2017

Sarla Devi and others ......Appellants

Versus

Ram Niwas and others ....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Ashish Gupta, Advocate for the appellants.

Mr. Neeraj Khanna, Advocate for Mr. Ravinder Arora, Advocate for respondent No. 3.

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ANITA CHAUDHRY, J

This is the claimants' appeal seeking enhancement in the award dated 7.10.1992 passed by Motor Accident Claims Tribunal, Jind.

The record of this file had been burnt in the fire accident which had taken place in the year 2011. Copy of the award and grounds of appeal are available. Counsel for the parties have stated that the matter can be decided on the basis of the award and other available material.

Ramesh Chander alias Ramesh Chand was 45 years old and was an employee of the Postal Department at Jind. He was getting a gross salary of Rs. 1943/-. The Tribunal after deducting the amount that was allowed for D.A. and house rent allowance considered the income to be Rs. 1800/- per month and made a deduction of 1/3rd and applied the multiplier of 12 and calculated the compensation at Rs. 1,72,800/-. No amount on the miscellaneous heads were granted.

The submission on behalf of the appellants is that the deceased was a permanent employee and there should have been an addition of 30% towards future prospects and the deduction should have been 1/4th considering the number of the claimants and the multiplier should have been 14. Referring to ***Vimal Kanwar and others versus Kishore Dan and others 2013(2) R.C.R. (Civil) 945***, it was urged that the claimants were entitled to loss of love and affection for the widow and for the mother @ 1.00 lac each, funeral expenses of Rs. 25,000/-, Rs. 1.00 lac for loss of consortium and Rs. 1.00 lac for loss of estate.

The submission on the other hand is that the accident had taken place in 1992 and in the latest judgment the Apex Court had held that besides the three heads there is no separate head on which any amount should be allowed i.e. loss of care and guidance for the minor children nor any amount can be allowed for loss of love and affection to the widow or to the mother nor at the rate at which the appellant is claiming as they would be paying interest on the amount.

The Tribunal had made a deduction from the income and did not take the gross salary for calculation. The gross salary should have been considered. The calculations will have to be made again by making a deduction of 1/4th and applying the multiplier of 14. Since the deceased was a postal employee and was on a permanent job and in the age group of 40-50 there should have been an addition of 30%. Therefore, taking the income at Rs. 1943/-, the addition would be Rs. 582.90 = Rs. 583/-. The total income would be Rs. 1943 + 583 = Rs. 2526/- and making a deduction of 1/4th, the amount available for the family would be Rs. 1895/- and the compensation would come to Rs. 1895 x 12 x 14 = 3,18,360/-. To this, Rs. 15,000/- should be allowed for loss of consortium, Rs. 5,000/- for loss of estate and Rs. 2500/- as funeral expenses. The total of this comes to Rs. 3,40,860/-. The Tribunal had allowed Rs. 1,72,800/- which would be deducted and the balance amount i.e. Rs. 1,68,060/- would be paid by the insurance company to the claimants with interest @ 6% from January 1993 till the amount is actually paid.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

November 07, 2017
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No