

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

**FAO No. 25 of 1989 (O&M)
Date of Decision: July 25, 2017**

Jaswant Singh

..Appellant(s)

Versus

Samundri Highway Transport Ltd. and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Gulshan Sharma, Advocate
for the appellant.

Mr. Lalit Garg, Advocate
for respondent no.3-insurance company.

ANITA CHAUDHRY, J.

This is the claimant's appeal seeking enhancement in the award dated 13.10.1988, passed by the Motor Accident Claims Tribunal, Faridkot.

Learned counsel for the appellant submits that service upon respondent no.1 may be dispensed with.

As reported by the Registry, respondent no.2 has refused to accept the notice, affixation has been made but no one appears, therefore, he is proceeded *ex parte*.

The record of this file had been burnt in the fire accident which had taken place in the year 2011. Only the copy of the award

could be reconstructed. None of the parties could give any material for reconstruction of the record. The counsels appearing for the parties agreed that the matter can be decided on the basis of whatever is available on the record.

The submission on behalf of the appellant is that the claim petition was filed by Jaswant Singh husband of the deceased and Jaswant Singh has died and his legal heir, the son has been impleaded. The counsel submits that Mohinder Kaur was a house-wife and it was claimed that there was loss of Rs.600 – 700/- per month but the Tribunal took the income to be Rs.200/- per month and deducted 50% and applied the multiplier of 12 and the compensation was calculated as Rs.14,400/- and the claim of Rs.15,000/- was allowed, which it said was the minimum compensation as provided under Section 92-A of the Motor Vehicle Act. The counsel submits that the income should have been taken at Rs.600/- or Rs.700/- per month and the calculation be made again and the claim against the insurance company can be limited to be 50% and the remaining amount can be recovered from respondent no.2. The counsel also submits that respondent no.1 was a concern which is not in existence now and perhaps has gone into liquidation.

The submission on behalf of the respondent-insurance company is that there was no scope for increasing the amount and the accident had occurred in 1986 and the contribution by the house-wife would not be more than what was allowed by the Tribunal.

The minimum wages in 1986 were Rs.500/-, therefore, I propose to take that as the contribution by the wife and the calculations will have to be made again. There will be no deduction so far as the amount is concerned, therefore, compensation would be $\text{Rs.}500 \times 12 \times 11 = \text{Rs.}66,000/-$. To this a sum of Rs.1,000/- is added as funeral expenses raising the total to Rs.67,000/-. The Tribunal had allowed Rs.15,000/- which would be deducted and the remaining amount would be payable with interest @ 6% from January 1989 till realization. The total liability of the insurance company would only be 50,000/- in terms of Section 95 of the Motor Vehicle Act, 1939 and the remaining amount can be recovered from respondent no.2. The award is modified.

The appeal is partly allowed.

July 25, 2017

sunil

(ANITA CHAUDHRY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No