

In the High Court of Punjab and Haryana at Chandigarh

F.A.O No. 1264 of 1991 (O&M)

Date of Decision: 11.7.2017

Shanti Devi and others

.....Appellants

Versus

Basant Yadav and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Ram Avtar Yadav, Advocate
for the appellants.

Mr. Lalit Yadav, Advocate
for respondent No. 3-Insurance Company.

ANITA CHAUDHRY, J

This is the claimants' appeal seeking enhancement in the award dated 29.5.1991 passed by the Motor Accident Claims Tribunal, Gurgaon.

The record of this file had been burnt in the fire accident which had taken place in the year 2011. Only copy of the award is available on record. However, counsel for the appellants have placed on record copy of the statement of the witnesses. The counsel appearing for both the parties stated that the matter can be decided on the basis of the material available.

Nanwa aged 60 years was an agriculturist. He died in an accident which occurred on 19.3.1990. He left behind seven daughters and four sons besides his widow. The Tribunal found that two sons and the daughters were married and only two sons were unmarried. The minimum wages that year were around Rs. 800/- per month. The Tribunal took the

Income as Rs. 1500/- per month and calculated the loss after applying the

multiplier of 7. No amount was allowed on the miscellaneous heads.

The submission on behalf of the appellants is that the income has been taken on the lower side and the deduction of one tenth should have been made and the Tribunal failed to award any compensation for loss of consortium, funeral expenses and loss of love and affection for the children.

The submission on the other hand is that the married daughters were not entitled to compensation and two sons were married and were not dependant and the deduction of 1/3rd was rightly made as two sons were minor.

Shanti Devi had accepted about the marriage of children and that the married sons were living separately and they were not dependant upon her husband.

Counsel for the appellants had also submitted that the deceased owned land. From the documents placed on record by the appellants I find that the jamabandi Ex. P-2 was tendered in evidence but the copy of the same is not available. I would make no change with respect to the income even otherwise if the deceased had left behind some land, it would be available with the family and the family is large and they would have the income from the land. The widow (if the sons were not helping) would have to engage someone to look after the land.

The deceased had left behind 11 children, all the daughters and two sons are married. Only two sons were minor at that point of time. Therefore deduction of 1/3rd was rightly made. No change is required to be made. I find that the Tribunal had failed to award compensation on number of heads. Therefore, I would award Rs. 25,000/- for loss of consortium,

Rs. 10,000/- for funeral expenses and Rs. 20,000/- for loss of love and

affection for the two sons who were minor at that time. The addition, therefore, is of Rs. 55,000/-. The amount would be payable to the claimants with interest @ 6% from the date of filing of the appeal i.e. September 1991 till the amount is actually paid.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

July 11, 2017
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No