In the High Court of Punjab and Haryana at Chandigarh

F.A.O No. 175 of 1995
Date of Decision: 05.4.2017

Karnail Kaur and others ......Appellants

Versus

Harbans Singh and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Ashok Jindal, Advocate
for the appellants.

Mr. Lalit Garg, Advocate
for New India Assurance Company Ltd.

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ANITA CHAUDHRY, J

This is the claimants' appeal seeking enhancement in the award dated 21.7.1994 passed by the Motor Accident Claims Tribunal, Bathinda.

Darshan Singh died in an accident on 6.6.1990. His widow and three minor children who were in the age group of 9-12, filed the claim petition. The claimants had pleaded that deceased Darshan Singh was cultivating 15-16 killas of land and was earning Rs. 9,000/- per month. However, no evidence could be led to show that he owned any land or had taken any land on lease. Therefore, by taking the monthly income at Rs. 1200/- the calculations were made. Rs. 200/- i.e. $1/6^{th}$ of the amount was deducted as personal expenses and the multiplier of 16 was applied to calculate the compensation at Rs. 1,92,000/-.

Counsel for the appellants has urged that the income taken was on the lower side and since there is no appeal from the other side, therefore,

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deduction which was made or the multiplier which was used should not be altered. It was urged that no amount on the miscellaneous heads was given namely funeral expenses, loss of consortium, loss of estate and loss of love and affection for the children.

The submission on the other hand was that the Court can take note of the fact that incorrect multiplier has been used and deduction is also not as per the case of ***Sarla Verma v. DTC, (2009) 6 SCC 121*** and the deduction would be $1/4^{th}$ instead of $1/6^{th}$ and since an additional amount has already been granted by making wrong calculation, therefore, the additional amount can be taken to be the compensation on the other miscellaneous heads.

The minimum wages in Punjab in 1990 was Rs. 800/- per month. There was no evidence that the deceased was an agriculturist or had taken any land on lease. The income was taken as Rs. 1200/- per month which I do not propose to change. The deduction of $1/6^{th}$ was incorrectly made and even the multiplier was not correctly applied. The deceased was 40 years old. Therefore, the multiplier applicable would be 15. By making the calculation again and making the deduction of $1/4^{th}$ and applying the multiplier of 15, the compensation would come to Rs. 1,62,000/-. To this, a sum of Rs. 10,000/- is added as funeral expenses, Rs. 25,000/- for loss of consortium, Rs. 25,000/- for loss of estate and Rs. 25,000/- for loss of love and affection for the children raising the total to Rs. 2,47,000/-. The Tribunal had awarded Rs. 1,92,000/-, which would be deducted and the balance amount i.e. Rs. 55,000/- will be paid by the insurance company to the appellants along with interest @ 6% from January 1995.

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The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

April 05, 2017
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Whether speaking/reasoned : Yes
Whether reportable : No

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