IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2047 of 1995 (O&M)
Date of Decision: 11.12.2017

Gulzara Singh and another

...Appellant(s)

Versus

Dharambir Singh and others

...Respondent(s)

CORAM:-HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. N.S. Gill, Advocate for
Mr. P.K. Gupta, Advocate
for the appellants.

Mr. Lalit Garg, Advocate
for respondent No.3.

ANITA CHAUDHRY, J.

Learned counsel for the appellants points out that service upon respondents No.1 and 2 had already been dispensed with vide order dated 01.03.2017.

The record of this file had been burnt in the fire incident which had taken place in the year 2011. Only copy of the award and grounds of appeal are available. Both the parties had stated that the matter can be decided on the basis of the award and the other available material.

Kashmira Singh, son of the claimant, died in an accident which occurred on 22.02.1994. The parents filed a claim petition which was allowed on 19.05.1995 and award of Rs.81,000/- was passed. The deceased was stated to be a L/NK with the Indian Army.

He was unmarried and was drawing a salary of Rs.1163/- per month. The Tribunal assessed the dependency at Rs.500/- per month and the annual amount was taken as Rs.6,000/- and it applied the the multiplier of 13, the compensation was calculated at Rs.78,000/-. Over and above amount of Rs.3000/- was allowed as funeral expenses which were payable with interest @12%.

The submission on behalf of the appellant is that with time the law has changed and an addition towards future prospects should be made and since he was in a permanent job, the addition would be 50%.

The counsel further urges that multiplier should be as per the age of the deceased and not of the claimant's and no amount had been allowed for loss of estate which should also be awarded.

The submission on behalf of the Insurance Company is that the incident is of 1994 and any addition, if made, should be considering the income existing at that point of time and they be given time to pay the amount and if any enhancement is made, they would pay the enhanced amount within two months.

The Tribunal had noted that the deceased was getting a salary of Rs.1163/- per month. As per '***National Insurance Company Ltd. Vs. Pranay Sethi and others (SLP (Civil) No.25590 of 2014)'*** addition of 50% should be made and that would raise the total to Rs.1744/-. Since the deceased was unmarried, the deduction would be 50% and the amount of compensation would be

872x12x13=Rs.1,36,032/-. The multiplier was correctly applied, taking the age of the claimants as held in '***New India Assurance Company Ltd. Vs. Shanti Pathak and others, 2007(3) R.C.R. (Civil) 593'*** decided on 10.07.2007.

The Tribunal had only allowed a sum of Rs.3,000/- for the last rites. An addition of Rs.5000/- should be made for loss of estate and the total would come to Rs.1,44,032/-. The Tribunal had awarded Rs.81,000/- which would be deducted and the remaining amount would be payable with interest @6% from the date of filing of appeal.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

December 11, 2017
ps-l

Whether Reasoned/Speaking **Yes/No**
Whether Reportable **Yes/No**