In the High Court of Punjab and Haryana at Chandigarh

F.A.O No. 1862 of 1997 (O&M)
Date of Decision: 04.10.2017

Parma Choran and others ......Appellants

Versus

Faruq Ahmad and others ....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Y.P.Malik, Advocate
for the appellants.

None for respondent No. 1.

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

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<u>ANITA CHAUDHRY, J</u>

This is the claimants appeal seeking enhancement of compensation.

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 and grounds of appeal are available. Counsel for the parties stated that the matter can be decided on the basis of the award and other available material.

It was claimed that Ashok owned 30 bighas of land in Himachal Pradesh and was also doing apple business. The claimants led no evidence to prove the income but produced an income certificate issued by the Tehsildar. The Tribunal rejected that evidence and took the income to be Rs. 3,000/- per month and made a deduction of 1/3rd and applied the multiplier of 16 as it noted that the age of the deceased was 32-33 years as spoken by the widow and allowed compensation of Rs. 3,84,000/-.

The submission on behalf of the appellants is that the income has been taken on the lower side and a person who owns land would certainly have a higher income. The counsel further submits that the amount allowed for loss of consortium, loss of love and affection, loss of estate and funeral expenses were not given.

Counsel appearing for the insurance company fairly concedes that no amount was allowed on the miscellaneous heads but he states that the accident is of 1992, therefore, they were entitled to rates which were prevalent at that point of time as they would be awarded interest over that amount.

The widow had stated that the deceased Ashok Kumar was 32-33 years old. His income was taken as Rs. 3,000/- per month. The minimum wages in 1992 were less than Rs. 1,000/-. A jamabandi had been produced to show that the deceased owned orchards and another land in Himachal Pradesh. I would take the income of the deceased at Rs. 5,000/- per month. Had the income been higher there would have been some documents evidencing the surplus amount i.e. bank account.

Taking the income to be Rs. 5,000/- and making a deduction of 1/3rd and applying the multiplier of 16, the compensation would come to Rs. 6,40,128/-. To this Rs. 5,000/- should be added for funeral expenses, Rs. 25,000/- for loss of estate, Rs. 25,000/- for loss of consortium and Rs. 25,000/- for loss of love and affection which raises the total to Rs. 7,20,128/-. The Tribunal had allowed Rs. 3,84,000/- which would be deducted and the remaining amount i.e. Rs. 3,3,61,28/- would be payable with interest @ 6% from the date of filing of the appeal till the amount is actually paid. The amount would be paid to the claimants in the same ratio as allowed by the Tribunal and would be paid by the insurance company in cash as the minors have attained majority.

The award is modified and the appeal is disposed of on the above terms.

(ANITA CHAUDHRY)
JUDGE

October 04, 2017
Gurpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No