

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.1473 of 1999 (O&M)
Date of Decision: February 09, 2017

Smt. Champa Devi and others

..Appellant(s)

Versus

Virender Singh and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Amrita Nagpal, Advocate
for the appellants.

Mr. Suvir Dewan, Advocate
for respondent no.3.

ANITA CHAUDHRY, J.

This is the claimants' appeal seeking enhancement in the compensation allowed to them by the Motor Accident Claims Tribunal, Faridabad vide award dated 03.02.1999.

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.

Kiran Pal aged 29 years met with an accident on 30.04.1996. He left behind his widow, three children and his father

who filed a claim petition on 31.05.1996. The claimants had pleaded that Kiran Pal was running two shops and used to repair tyres & tubes at Faridabad and was earning Rs.6,000/- per month.

The respondents had denied the accident and pleaded that the driver did not have a valid driving licence and there was no evidence that the deceased was running two shops or was earning Rs.6,000/- per month. The Tribunal held respondent no.1 responsible for the accident. The Tribunal noted that there was no evidence except the bare statement of one of the claimants with respect to the income and took the minimum wages, which were Rs.1500/- per month to be the income and after deducing $\frac{1}{3}^{\text{rd}}$ towards personal expenses, Rs.1,000/- was taken as the contribution to the family and after applying the multiplier of 16, the compensation was calculated at Rs.1,92,000/-, which was to be payable by all the respondents jointly and severally. The share of the minors was ordered to be deposited in the fixed deposit till they attained majority.

The submission on behalf of the appellants is that the deceased was repairing tyres & tubes and less income was taken and considering the large number of family members, the deduction should have been $\frac{1}{4}^{\text{th}}$ and considering the age, the multiplier should have been 17 and they were also entitled to some amount for loss of consortium, funeral expenses, loss of love & affection and loss of estate. The submission was that there was no evidence with respect to the income, therefore, the minimum wages was rightly taken and even the deduction towards personal expenses was correctly taken at $\frac{1}{3}^{\text{rd}}$.

So far as the income is concerned, there was no evidence, therefore, the Tribunal had rightly taken the minimum wages as Rs.1500/- per month in 1996. Considering the number of legal heirs that were left behind the deduction should have been $\frac{1}{4}^{\text{th}}$ and the multiplier should have been 17, therefore, making the calculations again and taking the monthly contribution as Rs.1,125/-, the compensation would come to Rs.2,29,500/-. The appellants are also entitled to increase on the other heads. The Tribunal had failed to award any amount for loss of consortium or for funeral expenses and even for loss of estate. Therefore, a sum of Rs.25,000/- is allowed to the appellants for loss of consortium, a sum of Rs.10,000/- is allowed as funeral expenses and a sum of Rs.10,000/- is added for loss of estate and a sum of Rs.15,000/- is awarded for loss of love and affection to each child (total Rs.45,000/-). The total of this comes to Rs.3,19,500/-. The Tribunal had awarded Rs.1,92,000/-, which would be deducted and the remaining amount would be paid with interest @ 6% from the date of filing of the appeal i.e. 13.05.1999 till realization. The entire amount would be paid by draft to the appellants in the same ratio as allowed by the Tribunal as the minors have attained majority.

Accordingly, appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

February 09, 2017
sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No