

In the High Court of Punjab and Haryana at Chandigarh

F.A.O No. 659 of 2003 (O&M)

Date of Decision: 26.5.2017

Harbhajan Kaur and others

.....Appellants

Versus

Rajesh Kumar and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Vinod Kanwal, Advocate for
Mr. Ashit Malik, Advocate
for the appellants.

Mr. D.P.Gupta, Advocate
for respondent No. 2.

ANITA CHAUDHRY, J

This is the claimants' appeal seeking enhancement in the award dated 6.11.2002 passed by the Motor Accident Claims Tribunal, Karnal.

The record of this file had been burnt in the fire accident which had taken place in the year 2011. Copy of the award and the statements have been placed on record. The counsel appearing for both the parties stated that the matter can be decided on the basis of the material available.

Bhagwant Singh met with an accident on 30.6.2001. He died on 2.7.2001. He was stated to be a mason. The Tribunal held that there was no evidence to show that the deceased was a mason and observed that a labourer could earn Rs. 1800-2000 per month and after deducting 1/3rd towards personal expenses, the multiplier of 8 was applied. It noted that there were contradictions with respect to the age of the deceased as in the

claim petition, his age was given as 30 years but when the widow stepped

into the witness box, she stated her husband was 50 years old. In the post-mortem report, the age was mentioned as 55 years whereas in the MLR his age was shown as 65 years. The age of the deceased was taken between 55 and 60 years but the multiplier of 8 was applied and the compensation was calculated as Rs. 1,15,200/-. Rs. 5,000/- was added as funeral expenses and an award of Rs. 1,20,000/- was passed.

Counsel for the appellants has placed on record statement of Harbhajan Kaur and urges that she had given her age as 45 years and the children were studying in the 2nd and 3rd class. She had stated that her husband was five years older to her, therefore the multiplier of 13 should have been applied. It was urged that no amount had been granted for loss of consortium and for loss of love and affection for the children and an addition should be made.

The submission on the other hand was that the widow had claimed that they had a ration card therefore it was easy for them to produce which could have helped the Court to arrive at the correct age and the material had been held back, therefore, the Tribunal had taken the age of the deceased to be between 55 and 60 years and rightly so.

Since there are contradictions with respect to the age of the deceased, it would be appropriate to apply the multiplier of 9 taking the age of the deceased to be between 56 and 60 years. The minimum wages in Haryana in the year 2001 were Rs. 1915/- per month. The income can be taken as Rs. 2,000/- per month. After making a deduction of $\frac{1}{3}$ rd, the compensation would be Rs. $1334 \times 12 \times 9 = 1,440,72/-$. To this Rs. 5,000/- should be added for funeral expenses, Rs. 25,000/- for loss of love and affection for the minor children, Rs. 25,000/- for loss of consortium,

Rs. 10,000/- for the amount spent on the treatment and Rs. 3,000/- for attendant and transportation. The total of this comes to Rs. 2,12,072/- The Tribunal had awarded Rs. 1,20,000/- which would be deducted and the remaining amount i.e. Rs. 92,072/- would be payable to Harbhajan Kaur-appellant No. 1 with interest @ 6% from February 2003 till realization.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

May 26, 2017
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No