IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 1087 of 2001 (O&M)
Date of Decision: August 02, 2017

Santra Devi and others

..Appellant(s)

Versus

Balvinder Singh and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Veneet Sharma, Advocate
for the appellants.

Mr. Gopal Mittal, Advocate
for respondent no.3.

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ANITA CHAUDHRY, J.

This is the claimant's appeal seeking enhancement in the award dated 02.12.2000, passed by the Motor Accident Claims Tribunal, Sonipat.

The record of this file had been burnt in the fire incident 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.

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Jagbir was an ex-serviceman and was getting pension of Rs.3,000/- per month. It was pleaded that he owned 7½ Bigha land and was selling shoes in a rented shop and was earning Rs.12,000/- per month from all the vocations. He died in an accident which occurred on 05.02.1999. The Tribunal noted that no evidence had been led with respect to the business or that he owned land and took his income to be Rs.3,000/- per month. It noted that had he been earning a higher amount then he would have paid income tax but it noted that since he was a defence personnel, he would not have remained idle and could have earned Rs.3,000/- per month at least which a skilled worker could earn. It applied a cut of $1/3^{rd}$ towards personal expenses and a multiplier of 15 and calculated the compensation to be Rs.3,60,000/-.

The submission on behalf of the appellant is that the income is taken on the lower side and the deduction should have been $1/4^{th}$ considering the number of claimants and they were entitled to compensation for the funeral expenses for loss of consortium and love and affection.

The submission on behalf of the insurance company is that the Tribunal had wrongly applied the multiplier of 15 and it should be 14 and since the higher multiplier has already been applied they would not be entitled to any more amount.

The incident is of February 1999. I would not make any change so far as the income is concerned and taking the income to be

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Rs.3,000/- per month and deducting 1/4th towards personal expenses, the amount available for the family would be R.2,250/- per month and the compensation would be Rs.2,250/- x 12 x 14 = Rs.3,78,000/-. Rs.5,000/- is allowed as funeral expenses, Rs.25,000/- is allowed for loss of consortium and Rs.25,000/- is allowed for loss of love and affection for the children, which raises the total to Rs.4,33,000/-.

The Tribunal had allowed Rs.3,60,000/-, which would be deducted and the remaining amount would be payable by the insurance company with interest @ 6% from March 2001 till realization.

The appeal is partly allowed.

August 02, 2017 **(ANITA CHAUDHRY)**
sunil **JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

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