

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.245 of 2001 (O&M)
Date of Decision: March 21, 2017

Hardevi and others

..Appellant(s)

Versus

P. Shekhar and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Palvinder Singh, Advocate
for the appellant.

Mr. Rajiv Verma, Advocate
for respondent no.3-Union of India.

ANITA CHAUDHRY, J.

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.

For the reasons set out in the applications, same are allowed as prayed for and delay of 210 days in filing the appeal and 110 days in re-filing the appeal is condoned.

Main Case

This is the claimants' appeal seeking enhancement in the award dated 16.03.1999, passed by the Motor Accident Claims Tribunal, Kaithal.

Before deliberating on the issues raised by the appellants, the factual matrix.

Mohinder Singh was 40 years old and was an agriculturist. He met with an accident on 21.01.1996. It was claimed that he was earning Rs.5,000/- per month from agricultural work and dairy farm. The claimants failed to produce any record to show ownership of any land, therefore, the Tribunal took the income to be Rs.1,500/- per month (minimum wages in that year) and by making a deduction of $\frac{1}{3}^{\text{rd}}$ and after applying the multiplier 15 calculated the loss at Rs.1,80,000/-. A sum of Rs.5,000/- was added for funeral expenses and award of Rs.1,85,000/- was passed, which was payable with interest @ 12%.

The appellants have urged that the income was taken less and less amount had been awarded for funeral expenses and no amount had been awarded for loss of consortium and loss of love and affection for the children.

The submission on the other hand was that there is no evidence with respect to the income and the minimum wages were less than Rs.1,500/- per month in that year.

No evidence was led with respect to the income, therefore, the income was rightly taken at Rs.1500/- per month. The multiplier was also correctly applied, however, I find that the award needs to be modified as compensation has not been awarded on some heads. The accident had taken place in 1996. Only a sum of Rs.5,000/- was allowed for funeral expenses. I would add Rs.10,000/- more. No amount was granted for loss of consortium and I would make an

addition of Rs.25,000/- for loss of consortium and a sum of Rs.25,000/- for loss of love and affection for the children and a sum of Rs.5,000/- towards loss of estate. In this manner, the appellants would be entitled to an additional amount of Rs.65,000/-.

The award is modified and it is held that the appellant would be entitled to an additional amount of Rs.65,000/-. The above amount of Rs.65,000/- would be payable by the respondent no.3-Union of India with interest @ 6% from February, 2001 as the appeal was filed after a delay.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

March 21, 2017
sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No