

In the High Court of Punjab and Haryana at Chandigarh

F.A.O No. 2901 of 2006 (O&M)

Date of Decision: 27.3.2017

Biban and another

.....Appellants

Versus

Jeet Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Maharaj Kumar, Advocate
for the appellants.

Mr. Maninder Singh Saini, Advocate
for respondent No. 1.

Mr. Gaurav Gupta, Advocate for
Mr. G.D.Gupta, Advocate
for respondent No. 10-Insurance Company.

ANITA CHAUDHRY, J

This is the claimants appeal seeking enhancement of award dated 28.7.2005.

The record of this file had been burnt in the fire accident which had taken place in the year 2007. The complete record could not be reconstructed. The appellants had placed on record ground of appeal and the copy of the award. Both the sides have stated that the matter can be disposed of on the basis of the award alone.

Baldev was 22 years old and had died in an accident which occurred on 4.11.1999. The claim petition was filed by his widow and four months old daughter. The Tribunal had assessed the income as Rs. 2500/- per month as no proof regarding his income was produced.

The multiplier of 14 was applied to calculate the compensation to be

Rs. 2,80,000/-. The Tribunal had held that since the widow had remarried, she was not entitled to loss of consortium. However, a sum of Rs. 5,000/- was added for last rites.

The submission on behalf of the appellants is that since the deceased was 22 years old, therefore, multiplier applicable would be 18 and just because the widow had remarried, she could not be denied the amount for loss of love and affection and the amount allowed for funeral expenses was on the lower side.

Counsel appearing for respondent No. 1 had urged that two vehicles were involved in the accident but the claim was made only from the owner and driver of the scooter and not from the driver of the tractor-trolly and the Tribunal had held both the persons to have contributed in the accident and the liability was apportioned at 50%. Since the claim was not against the tractor owner, driver and the insurance company, therefore, the claimants were held entitled to only 50% of the amount.

It is not in dispute that the deceased was 22 years old. Therefore, the multiplier applicable should have been 18 and the calculations will have to be made again. The income was rightly taken at Rs. 2500/- per month as no evidence was adduced with respect to the income. The minimum wages in 1999 were Rs. 1851.58 per month. Therefore, I would make no change since there is no appeal by the other side. After deducting 1/3rd towards personal expenses, the income available would be Rs. 1667/- per month and the annual dependency would come to Rs. 20,004/- and after applying the multiplier of 18, the compensation would work out to Rs. 3,60,072/-. The amount awarded for last rites was adequate. No addition needs to be made. However, I would add

Rs. 25,000/- for loss of love and affection for the child which raises the total to Rs. 3,85,072/-. Out of this amount, 50% would be deducted as the liability on the owner-driver was only to the extent of 50%. Therefore, 50% of this amount comes to Rs. 1,92,536/-. The Tribunal had awarded Rs. 1,42,500/- which would be deducted. The balance amount would be paid by the insurance company in the same ratio that was allowed by the Tribunal. The remaining amount would be apportioned in the same ratio as was allowed by the Tribunal among the appellants and respondents No. 4 and 5.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

March 27, 2017
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No