

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**FAO No.4115 of 2007 (O&M)
Date of Decision: March 22, 2017**

Santosh & Ors.

..Appellant(s)

Versus

Shamsher @ Kukku and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Rampal Verma, Advocate
for the appellants.

Mr. Surinder Pal, Advocate &
Mr. Vikas Mohan Gupta, Advocate
for respondent nos.1 & 2.

Mr. R.C. Gupta, Advocate
for respondent no.3.

ANITA CHAUDHRY, J.

This is the claimants' appeal seeking enhancement in the award dated 01.05.2007, passed by the Motor Accidents Claims Tribunal, Sonipat.

The appeal had been filed by the appellants but due to non appearance of the counsel the appeal was dismissed in default on 20.02.2014. An application for restoration of the appeal was filed after a delay of 951 days, which had been condoned.

The deceased Pawan met with an accident on 02.04.2005. He was 25 years old. The Tribunal had taken his income to be

Rs.3,000/- per month and after making a deduction of 1/3rd the annual dependency was taken at Rs.24,000/- and applying the multiplier of 16 the compensation was calculated as Rs.3,84,000/-. A sum of Rs.6,000/- only was added as funeral expenses, raising the total to Rs.3,90,000/-.

The submission on behalf of the appellants is that the deceased had no issue and the claimants were the wife and parents and as he was 25 years old, the multiplier should have been 18 instead of 16. It was urged that amount allowed for funeral expenses was on the lower side and the widow was entitled to loss for consortium and also some amount for loss of love and affection. It was urged that addition should also be made with respect to the future increase in the income.

The submission on the other hand was that there was no evidence that the deceased was a permanent employee and the minimum wages have been taken and no addition could be made with respect to the future prospects and the matter is under consideration with the larger Bench. It was urged that the interest awarded was on the higher side.

So far as the question of addition of future prospects is concerned, the matter is under consideration with the larger Bench and even otherwise the deceased was not on a permanent job, therefore, no increase towards future prospects can be made.

The deceased was 25 years old, therefore, the multiplier should have been 18. The Tribunal failed to award any amount for loss of consortium, therefore, the award will have to be modified.

Taking the income to be Rs.3,000/- per month and after deducting 1/3rd towards personal expenses, the amount available for the family would be Rs.2,000/- and the annual dependency would be Rs.24,000/- and after applying the multiplier of 18, the compensation would come to Rs.4,32,000/-. An addition of Rs.19,000/- more is made towards funeral expenses and a sum of Rs.1 lac is added for loss of consortium and a sum of Rs.50,000/- is added as loss of love and affection for the mother, raising the total to Rs.6,01,000/-. The Tribunal had awarded Rs.3,19,000/-, which would be deducted.

The appeal had been filed in September, 2007. The record of this file had been burnt in the massive fire which had taken place in the year 2011. Thereafter, no-one appeared on behalf of the appellants and the appeal was dismissed for non-prosecution giving liberty to revive the petition. An application for restoration was filed after a delay of 951 days, which was allowed, therefore, in these circumstances, I would allow interest on the enhanced amount @ 6% from January, 2010.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

March 22, 2017

sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No