In the High Court of Punjab and Haryana at Chandigarh

1. **F.A.O No. 4265 of 2010 (O&M)**
Date of Decision: 02.5.2017

Darshan Singh and others ......Appellants

Versus

Nand Kishore and others .....Respondents

2. **F.A.O No. 2823 of 2010 (O&M)**

United India Insurance Company Limited ......Appellant

Versus

Darshan Singh and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Ms. Monika Arora, Advocate for
Mr. Pritam Saini, Advocate
for the appellants.
(in FAO-4265-2010) and
for respondents No. 1 to 3
(in FAO-2823-2010)

Mr. V. Ramswaroop, Advocate
for the appellant-insurance company
(in FAO-2823-2010) and
for respondent No. 3
(in FAO-4265-2010)

Mr. Arun Singal, Advocate
for respondent No. 1
(in FAO-4265-2010) and
for respondent No. 4
(in FAO-2823-2010)

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ANITA CHAUDHRY, J

These are the two appeals, one filed by the insurance company and the other by the claimants against the award dated 6.2.2010 passed by the Motor Accident Claims Tribunal, Panipat.

Paramjit Kaur aged 40 years met with an accident on 18.4.2009. The claim petition was filed by the husband, minor daughter and son who was married. It was claimed that the deceased was running a business under the name and style of M/s Sony Textiles and was earning Rs. 30,000/- per month. Income tax returns for several years were placed on record but the Tribunal took ITR Ex. P6 which was filed after the death and applying the multiplier of 15 and making a deduction of 1/3rd, the compensation was calculated as Rs. 24,48,000/-. A sum of Rs. 10,000/- was added for transportation and funeral expenses. Rs. 5,000/- was allowed for loss of consortium raising the total to Rs. 24,63,000/-.

The submission on behalf of the insurance company is that the Tribunal had wrongly considered the income tax return for the year which had been filed after the death and it should have taken the return which was for the preceding year as the death has taken place in April 2009.

The submission of the claimants/appellants was that though the ITR has been filed after the death but it pertained to the relevant year. It was held that no amount had been allowed for loss of love and affection and for future prospects or for loss of estate and very less amount had been allowed for the loss of consortium.

So far as the addition towards future prospects is concerned, it cannot be made as the deceased was self-employed and the matter is still under consideration with the larger Bench.

The Tribunal had considered the income tax return which was filed after the death and could not have been considered. The Tribunal should have considered the income tax return for the year 2007-08 and according to Ex. P5 the income in that year was Rs. 2,12,636/- and if the calculations are made again and deduction of $1/3^{rd}$ is made, the amount would come to Rs. 1,41,758/- and after applying the multiplier of 15, the compensation would come to Rs. 21,26,370/-. Rs. 1,00,000/- should be added for loss of consortium, Rs. 25,000/- for funeral expenses, Rs. 1,00,000/- for loss of estate and Rs. 1,00,000/- for loss of love and affection for the minor child raising the total to Rs. 24,51,370/-. The Tribunal had allowed Rs. 24,63,000/-. The amount actually payable would be Rs., 24,51,370/-. The claimants are not entitled to any enhancement.

In view of the above, the appeal filed by the insurance company is partly allowed. The appeal filed by the claimants is dismissed.

(ANITA CHAUDHRY)
JUDGE

May 02, 2017
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No