IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4139 of 2011 (O&M)
Date of Decision: March 10, 2017

Harpal Kaur and others

..Appellant(s)

Versus

Sita Ram and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Ms. Jaspal Kaur Gurna, Advocate
for the appellant.

Mrs. Shamsher Kaur, Advocate
for respondent no.3.

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ANITA CHAUDHRY, J.

This is the claimants' appeal seeking enhancement in the award dated 17.03.2010, passed by the Motor Accidents Claims Tribunal, Ludhiana.

Balvir Singh husband of Harpal Kaur - appellant no.1 died in a vehicular accident, which took place on 22.11.2007. He was 65 years old. He was running a small business and his income-tax return showed that he was earning Rs.60,000/- per annum. The Tribunal noted that the deceased was running a saw mill, which had been given on rent after the death of Balvir and the family was getting Rs.2500/- to 3000/- per month as rent and after deducting a sum of Rs.30,000/- from the annual income, the total income was taken as Rs.30,000/- per annum and after giving a deduction of 1/3rd, the annual dependency was taken as Rs.24,000/- and after applying the multiplier of 5, the compensation was calculated as Rs.1,20,000/-.

The submission on behalf of the appellants is that no deduction should have been made and Rs.60,000/- should have been taken as annual income as that is the only evidence they could produce and an addition towards future prospects should have been made. It was urged that no amount for funeral expenses or for loss of consortium had been granted.

The submission on behalf of the insurance company is that the claimants were the widow and three major and married sons and the sons could not be dependent on the father who was 65 years old and the sons were settled and the deduction should have been 50% and not $1/3^{rd}$. It was urged that deceased was self-employed and in that case no addition towards future prospects could have been made.

The deceased was self-employed, therefore, no addition towards future prospects can be made. The income-tax return shows that the deceased was earning Rs.60,000/- per month. I am of the view that no deduction should have been made only because the family was getting some rent from the saw mill. The calculation will have to be made taking the income to be Rs.60,000/- per annum. The claimants no.2 to 4 were major sons who were settled in life and were in the age group of 40 – 45 years, therefore, the only dependant is Harpal Kaur, the widow. Therefore, deduction should be 50% and if the amount is calculated, the compensation would be Rs.30000 x 7 = Rs.2,10,000/-. The Tribunal failed to award any amount for funeral expenses or for loss of consortium, therefore, an addition of Rs.15,000/- is made for the funeral expenses and a sum of Rs.50,000/- is added for loss of consortium. The total of this comes to Rs. 2,75,000/-. The Tribunal had awarded Rs.1,20,000/-, which would be deducted and the remaining amount would be paid to appellant no.1 with interest @ 6% per annum from June, 2011 as the appeal was filed after a delay.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

March 10, 2017
sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No