

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

FAO No. 882 of 1990 (O&M)
Date of Decision: August 01, 2017

Kamla and others

..Appellant(s)

Versus

Bal Kishan and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Ms. A.S. Sandhu, Advocate
for the appellant.

Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate
for respondent no.3.

ANITA CHAUDHRY, J.

Registry has reported that fresh notice could not be issued to respondents no.1 & 2 as the correct address was not furnished by the appellants.

Counsel for the appellants says that service upon respondent nos.1 & 2 can be dispensed with. Ordered accordingly.

This is the claimants' appeal seeking enhancement in the award dated 18.04.1990, passed by the Motor Accident Claims Tribunal, Ambala.

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.

Faqir Chand was a Sweeper with the private hospital and his income was Rs.895/- per month. He was 41 years old. The Tribunal made a deduction of $\frac{1}{3}$ rd and applied the multiplier of 16 to calculate the loss and awarded Rs.1,15,200/- as compensation.

The submission on behalf of the appellants is that considering the number of family members the deduction should have been $\frac{1}{4}$ th and no amount has been allowed for funeral expenses, loss of consortium and loss of love and affection for the children.

The submission on behalf of the insurance company is that considering the age the multiplier would be 14 and not 16 and if any addition has to be made then it should be considering the amount that was payable then.

The Tribunal failed to award compensation on some of the heads and the calculation will have to be made again also because the dependency was taken as $\frac{1}{3}$ rd and should have been $\frac{1}{4}$ th considering that there were four dependents. The Tribunal had also wrongly applied the multiplier and it would be 14 considering the fact

that the deceased was 41 years old. After deducting 1/4th as personal expenses the amount available for the family would be Rs.672/- per month and the compensation would be Rs.672 x 12 x 14 = Rs.1,12,896/-. I would add Rs.10,000/- as funeral expenses, Rs.25,000/- as loss of consortium and Rs.25,000/- for loss of love and affection, which raises the total to Rs.1,72,896/-. The Tribunal had awarded Rs.1,15,200/-, which would be deducted and the claimants would be entitled to the remaining amount with interest @ 6% from September 1991 onwards.

The appeal is partly allowed.

August 01, 2017

sunil

(ANITA CHAUDHRY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No