

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

FAO No.5641 of 2011

Date of Decision.29.09.2017

Smt. Bhagmati wife of Sh. Sher Singh

.....Appellant

Vs

Ashok Kumar and others

.....Respondents

Present: Mr. Ajit Sihag, Advocate
for the appellant.

Ms. Vandana Malhotra, Advocate
for the insurance company-respondent No.3.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The appeal is for enhancement of compensation for death of a male namely Azad Singh, who died in a motor accident that took place on 5.7.2010 on account of rashness and negligent driving of respondent No.1, when the offending tractor bearing registration No.HR-20-B-3487 driven by him hit the motor cycle of the deceased. In this regard, an FIR bearing No.328 dated 6.7.2010 under Sections 279, 304-A IPC was also registered at Police Station Sadar Bhiwani against respondent No.1. The claimant is mother of the deceased. He was stated to be working as an agriculturist/labourer and earning ₹20,000/- per month.

The Tribunal while assessing the income of the deceased as ₹3600/- per month, deducted 50% of the same towards personal expenses and applied a multiplier of 11 to assess the compensation at ₹2,47,600/-, which included ₹10,000/- towards conveyance of dead body and performance of last rites.

Mr. Sihag, learned counsel appearing on behalf of the appellant submits that the Tribunal has erred in taking the income of the deceased as ₹3600/- per month under the Minimum Wages Act when it was specifically pleaded that the deceased used to earn ₹20,000/- per month by doing agriculture and labour work. It applied a multiplier of 11 only whereas it should have been 18 as the deceased was 20 years of age at the time of death. Moreover, the amount assessed towards loss of love and affection, funeral expenses and loss of estate is on lower side, thus, urges this Court for modification of the award by enhancing the amount of compensation.

Ms. Malhotra, learned counsel appearing on behalf of the insurance company submits that in the absence of any documentary proof, the Tribunal has rightly assessed the income of the deceased as ₹3600/- per month under the Minimum Wages Act. Therefore, the award passed by the Tribunal is fair and just and there is no scope for enhancement, thus, urges this Court for dismissal of the appeal.

I have heard learned counsel for the parties and appraised the paper book. In the absence of any documentary proof, the Tribunal has rightly assessed the income of the deceased as ₹3600/- per month under the Minimum Wages Act but erred in adopting the multiplier of 11 instead of 18 by taking into consideration the age of the deceased, who was 20 years old at the time of accident. Therefore, I will take the income of deceased as ₹3600/- per month, deduct 50% of the same towards personal expenses and adopt a multiplier of 18 to assess the loss of dependency as ₹3,88,800/-. I will further add to it ₹50,000/- towards loss of love and affection to the mother, ₹10,000/- for loss of estate and ₹25,000/- for funeral expenses.

In all, the compensation payable shall be ₹4,73,800/-. The

amount in excess over what has already been provided by the Tribunal shall also attract interest @6% per annum from the date of filing of the appeal till its realization. The liability shall remain the same as has already been determined by the Tribunal.

The award passed by the Tribunal is modified and the appeal is allowed to the above extent.

(AMIT RAWAL)
JUDGE

September 29, 2017
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No