

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

FAO No.2690 of 2012

Date of Decision.01.12.2017

Archana Rani and others

.....Appellants

Vs

Younis and others

.....Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Gaurav Sharma, Advocate for
Mr. Rakesh Kumar Sharma, Advocate
for the appellants.

Mr. Ravinder Arora, Advocate
for the insurance company.

-. -

AMIT RAWAL J.(ORAL)

The appeal is for enhancement of compensation for death of one Rakesh Kumar aged 39 years, who died in a motor vehicular accident occurred on 7.7.2009. He was stated to be working as Driver and earning ₹8000/- per month. The claimants are widow and two children.

Mr. Sharma, learned counsel appearing on behalf of the appellants submits that the Tribunal while assessing the compensation of ₹5,60,000/-, wrongly assessed the income of the deceased as ₹4500/- per month when there was a statement suffered by the employer Sushil Kumar, PW4 that the salary of the deceased was ₹8000/- per month. Moreover, nothing was provided for future prospects and the amounts assessed towards loss of consortium, loss of estate and funeral expenses are also on lower side, thus, there is scope for enhancement and urges this Court for modification of the award passed by the Tribunal.

On the contrary, Mr. Ravinder Arora, 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 ₹4500/- per month. A self-serving statement of the employer that the deceased was getting a salary of ₹8000/- is neither here nor there in the absence of any documentary proof. All the heads of claim are sufficiently taken care by the insurance company, thus, there is no scope for further enhancement.

I have heard learned counsel for the parties and appraised the paper book. I am of the view that in the absence of any documentary proof, the Tribunal has rightly assessed the income of the deceased as ₹4500/- per month. I will provide 40% increase on the same towards future prospects, make a deduction of 1/3rd towards personal expenses and adopt a multiplier of 15 to assess the loss of dependency as ₹7,56,000/-. I will further add to it ₹40,000/- towards loss of consortium, ₹15,000/- for loss of estate and ₹15,000/- for funeral expenses.

In all, the compensation payable shall be ₹8,26,000/-. The amount in excess over what has already been provided by the Tribunal shall also attract interest @6% from the date of filing the appeal till its realization. The enhanced amount shall be distributed equally amongst the claimants. 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

December 01, 2017
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No

