In the High Court of Punjab and Haryana at Chandigarh

F.A.O No. 4526 of 2012
Date of Decision: 02.11.2017

Jagdev Singh and another ......Appellants

Versus

Om Parkash and others ....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Madan Lal Saini, Advocate
for the appellants.

Ms. Vandana Malhotra, Advocate
for respondent No. 3.

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ANITA CHAUDHRY, J

This is the claimant's appeal seeking enhancement in the award dated 6.2.2012 passed by the Motor Accident Claims Tribunal, Fatehgarh.

Malkit Kaur wife of appellant No. 1 met with an accident on 5.9.2009. She was 45 years old. It was claimed that she used to earn Rs. 6,000/- per month as she was rendering services to the family and additionally selling milk. The Tribunal took the contribution of the wife to the family at Rs. 4,000/- per month and assessed the profit which she would have earned from sale of milk. The percentage of profit was taken at 15% and the monthly profit was taken as Rs. 620/-. The calculations were made taking the income to be Rs. 4620/- per month. The Tribunal deducted Rs. 1500/- for personal expenses and made the calculations taking the income to be Rs. 3120/- and applied the multiplier of 14 to calculate the loss at Rs. 5,24,160/-. A sum of Rs. 5,000/- was allowed for last rites and

Rs. 10,000/- for loss of consortium and total claim of Rs. 5,39,160/- was allowed.

The submission on behalf of the appellants is that when the notional income was taken, there could be no deduction towards personal expenses. It was urged that the amount of profit was allowed on the lower side and there should be some addition towards future prospects.

The submission on the other hand was that the deceased was said to be selling milk and the cattle would remain with the family and there would be no reduction in that income and since the notional income has been taken which is not the actual income, therefore, there could be no addition towards future prospects and there is no evidence of any fixed income. It was urged that the accident had taken place in 2009 and the Tribunal had adequately compensated them by giving the amount for funeral expenses and consortium.

I would make no change so far as the income is concerned. The contribution of the wife was rightly taken at Rs. 4,000/- per month. However, no deduction should have been made since the amount from sale of milk is meagre. I would not make any deduction from Rs. 620/- which was rightly calculated. Therefore, the calculation would be made by taking the income to be Rs. 4620/- and applying the multiplier of 14, the compensation would be Rs. 4620 x 12 x 14 = 7,76,160/- and after adding Rs. 5,000/- as funeral expenses and Rs. 25,000/- for loss of consortium, the amount payable would be Rs. 8,06,160/-. The amount allowed by the Tribunal would be deducted and the remaining amount would be payable with interest @ 6% from the date of filing of the appeal till the amount is actually paid.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

November 02, 2017
Gurpreet

Whether speaking/reasoned	**:**	**Yes**
Whether reportable	**:**	**No**