

In the High Court of Punjab and Haryana at Chandigarh

F.A.O No. 5353 of 2014 (O&M)
Date of Decision: 07.3.2017

Rajwinder Kaur and others

.....Appellants

Versus

M/s Lahore Timbers Traders and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Harpreet Singh, Advocate
for the appellants.

Mr. Parshant Vashishth, Advocate
for respondent No. 1.

Mr. Rajbir Singh, Advocate
for respondent No. 3.

ANITA CHAUDHRY, J

CM-14944-CII-2017

Application is allowed for the reasons stated therein.

Delay of 124 days in filing the appeal is condoned.

F.A.O No. 5353 of 2014

This is the claimants' appeal seeking enhancement of the award dated 13.11.2013 passed by the Motor Accident Claims Tribunal, Amritsar.

The deceased was 38 years old at the time of the accident i.e. 16.3.2013. He left behind three children, his widow. The parents were in the age group of 58-60 years. The claimants had pleaded that Sukhdev Singh was self employed and was a scrap merchant and was earning Rs. 20,000/- per month but the Tribunal noted that there was no evidence to support the plea. It also noted that an unskilled worker in Punjab could earn Rs. 5200/-

per month and therefore the income was taken at Rs. 6,000/- per month and deducting 1/4th towards personal expenses, a sum of Rs. 4500/- per month was taken to be the dependency and applying the multiplier of 15, the compensation was calculated at Rs. 8,10,000/-. A sum of Rs. 10,000/- was awarded as loss of consortium, Rs. 5,000/- for funeral expenses and Rs. 5,000/- for loss of estate raising the total to Rs. 8,30,000/-.

Counsel for the appellant placed reliance upon *Asha Verman and others versus Maharaj Singh and others* 2015(2) Recent Apex Judgments (R.A.J.) 445, and urges that very less amount has been awarded for loss of consortium, funeral expenses and no amount has been allowed for loss of love and affection for each child and loss of affection to the parents.

The submission on the other hand was that there was no evidence to show that the deceased was a scrap merchant and despite noticing that the minimum wages of Rs. 5200/-, the Tribunal had taken the income at Rs. 6,000/-. It was urged that in *Rajesh & Ors. v. Rajbir Singh & Ors., (2013) 9 SCC 54*, the judgment rendered by three Judges only Rs. One lac has been awarded as love and care for the children and not to each child. It was urged that the parents of the deceased were not the dependants.

I would not make any change so far as the income or deduction is concerned. The deceased had left behind his widow and three children who were in the age group of 13-17 years. Therefore deduction of 1/4th was rightly made and the compensation of Rs. 8,10,000/- was rightly calculated. However, there are certain heads on which the Tribunal had not awarded any compensation and some more amount should have been allowed for loss of consortium and funeral expenses. The appellants would be entitled to

compensation under the following heads:-

Loss of consortium	Rs. 95,000/-
Loss of estate	Rs. 25,000/-
Loss of love and affection for the children	Rs. 1,00,000/-
Funeral expenses	Rs. 20,000/-
Total	Rs. 2,40,000/-

The total compensation of Rs. 2,40,000/- would be payable with interest @ 6% from July 2014 onwards (The appeal had been filed after delay). The award is modified.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

March 07, 2017
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No