In the High Court of Punjab and Haryana at Chandigarh

F.A.O No. 6681 of 2015 (O&M)
Date of Decision: 03.5.2017

Mukhtiar Singh and others ......Appellants

Versus

Kuldeep Singh and others ....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. R.K.Shukla, Advocate
for the appellants.

Mr. S.S.Sarwara, Advocate
for respondents No. 1 and 2.

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

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ANITA CHAUDHRY, J

CM-20729-CII-2015

Application is allowed for the reasons stated therein.

Delay of 140 days in filing the appeal is condoned.

FAO-6681-2015

This is the claimants' appeal seeking enhancement in the award dated 26.11.2014 passed by the Motor Accident Claims Tribunal, Patiala.

Amarjeet Kaur aged 36 years met with an accident on 29.8.2013. It was claimed that she was doing tailoring work and was helping her husband in the dairy farming work and was earning Rs. 10,000/- per month but failed to lead evidence with respect to the income. Amarjeet Kaur was taken to be a housewife and notional income of Rs. 4,000/- per month was taken. Deduction of 1/3rd was taken and multiplier of 15 was applied to calculate the compensation to be Rs. 4,80,000/-. A sum of Rs. 1,00,000/- was allowed for loss of consortium and Rs. 25,000/- for funeral expenses raising the total to Rs. 6,05,000/-

Counsel for the appellants urges that the death had taken place in 2013 and the notional income taken was on the lower side. It was urged that an addition towards future prospects should have been made and they were also entitled to some amount for loss of estate and litigation expenses.

On the other hand, the submission was that the appellants were not entitled to any addition towards future prospects as notional income was taken and adequate amount had been allowed.

The claimants failed to lead any evidence to show that the deceased was working as a tailor. They could have produced the receipt/order book to show the work she was doing. The oral statement made by the husband was not enough to allow a higher amount. The Tribunal had taken the notional income to be Rs. 4,000/- per month and also deducted 1/3rd towards personal expenses. No deduction could have been made. The amount taken as notional income was also on the lower side. Therefore the notional income is taken as Rs. 5,000/- per month. No deduction is required and the compensation would be Rs. 5,000/- x 12 x 15 = 9,00,000/-. The deceased had left behind two minor children. Therefore, a sum of Rs. 1,00,000/- should be added for loss of love and affection, Rs. 1,00,000/- for loss of consortium and Rs. 25,000/- for funeral expenses raising the total to Rs. 11,25,000/-. The Tribunal had awarded Rs. 6,05,000/- which would be deducted and the remaining amount i.e. Rs. 5,20,000/- would be paid to the appellants with interest @ 6% from the date of filing of the appeal till realization. The insurance company would be at liberty to recover the amount from respondents No. 1 and 2 as ordered by the Tribunal.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

May 03, 2017
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No