

In the High Court of Punjab and Haryana at Chandigarh

F.A.O No. 8770 of 2014 (O&M)

Date of Decision: 07.11.2017

Laxmi Devi and others

.....Appellants

Versus

Sikandar Khan and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Drupad Sangwan, Advocate for
Mr. Rose Gupta, Advocate
for the appellants.

Mr. Anil Kumar Garg, Advocate
for respondent No. 1.

Mr. M.B.Jain, Advocate
for respondent No. 2.

ANITA CHAUDHRY, J

CM-23881-CII-2014

Application is allowed for the reasons stated therein.

Delay of 138 days in re-filing the appeal is condoned.

CM-23882-CII-2014

Application is allowed for the reasons stated therein.

Delay of 111 days in filing the appeal is condoned.

FAO-8770-2014

This is the claimants' appeal seeking enhancement in the award dated 22.7.2013 passed by the Motor Accident Claims Tribunal, Hisar.

The submission on behalf of the appellants is that the deceased Vijay Aggarwal was an Agent with a company and his income has been taken as Rs. 5500/- per month which were the minimum wages and no

addition towards future prospects has been made and the amount allowed

for funeral expenses and loss of estate are on the lower side and the Tribunal failed to allow any amount for loss of consortium.

The submission on the other hand is that the Tribunal had already taken a higher income and the minimum wages were less and as per the latest judgment of the Apex Court no amount should have been allowed for loss of love and affection.

Though, the claimants had pleaded that the deceased was an Agent and was getting salary of Rs. 15,000/- per month but they failed to establish it. The Tribunal had taken the income at Rs. 5500/- per month. The minimum wages in January 2012 were Rs. 4847/-. The actual minimum wages are taken which are established under the Minimum Wages Act and an addition towards future prospects will be made. In this case it would be 40% and the addition would come to Rs. 1939/-. The total income for calculation would be Rs. 6786/- and making a deduction of $1/4^{\text{th}}$, the amount available for the family would be Rs. 5090/- and the compensation would come to Rs. $5090 \times 12 \times 16 = 9,77,280/-$. To this, Rs. 15,000/- should allowed for loss of estate, Rs. 40,000/- for loss of consortium and Rs. 15,000/- for funeral expenses. The total of this comes to Rs. 10,47,280/-. The Tribunal had allowed Rs. 8,27,000/- which would be deducted and the balance amount i.e. Rs. 2,20,280/- would be paid to the claimants with interest @ 6% by the insurance company from the date of filing of the appeal till its realization.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

November 07, 2017
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No