In the High Court of Punjab and Haryana at Chandigarh

F.A.O No. 9016 of 2014 (O&M)
Date of Decision: 09.2.2017

Sonia and others ......Appellants

Versus

Naresh Kumar and another ......Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Gulraj Khan, Advocate for
Mr. S.S.Momi, Advocate
for the appellants.

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

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ANITA CHAUDHRY, J

CM-24645-CII-2014

Application is allowed for the reasons stated therein.

Delay of 44 days in filing the appeal is condoned.

FAO-9016-2014

This is the claimants appeal seeking enhancement of the compensation awarded to them by the Motor Accident Claims Tribunal, Kurukshetra vide award dated 15.5.2014.

A claim petition had been filed under Section 163-A of the Motor Vehicles Act. The wife, minor children and the mother were the claimants.

The only submission made on behalf of the appellants is that deduction of 1/3rd has been made whereas number of the claimants was large and deduction of 1/5th should have been made. It was urged that very less amount had been allowed towards loss of consortium and loss of estate.

The deceased had left behind three minor children in the age group of 2 years to 5 years besides Sonia who was aged 26 years when she lost her husband. The Tribunal had deducted 1/3rd towards personal expenses. Besides the wife and children, the deceased had also left behind his mother. Therefore, considering the number of claimants the deduction should have been 1/5th. Therefore, the calculations have to be made all over again. The annual income would be Rs. 2,640/- per month and the annual contribution would come to Rs. 31,680/-. After applying the multiplier of 18, the compensation would work out to Rs. 5,70,240/-. The Tribunal had allowed Rs. 2,000/- for funeral expenses to which I would add Rs. 23,000/- more and Rs. 22,500/- (Rs. 2,500/- had already been allowed by the Tribunal) on account of loss of estate and Rs. 98,000/- on the heads of loss of consortium (Rs. 2,000/- had already been allowed by the Tribunal). The total of this comes to Rs. 7,13,740/-. The Tribunal had allowed Rs. 4,84,700/- which would be deducted and the remaining amount i.e. Rs. 2,29,040/- would be payable to the appellants at the same rate of interest as allowed by the Tribunal from the date of institution of the appeal till realization. The share of the minors would be deposited in the Fixed Deposit till they attain majority. The share of appellant No. 1 and appellant No. 5 would be paid through draft. The award is modified to the extent mentioned above.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

February 09, 2017
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No