IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.9086 of 2014 (O&M)
Date of Decision: May 09, 2017

Darshana and others

..Appellant(s)

Versus

Budhi Singh and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Ms. Ekta Thakur, Advocate
for the appellant.

Mr. Rajbir Singh, Advocate
for respondent no.3-insurance company.

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ANITA CHAUDHRY, J.

This is the claimants' appeal seeking enhancement in the award dated 06.05.2014 passed by the Motor Accident Claims Tribunal, Chandigarh.

Umed Singh Negi was 55 years old and was doing private service. It was claimed that he was working with a concern in Motor Market, Mani Majra and was earning Rs.15,000/- per month. The Tribunal rejected the oral statement of Ramesh Chander and held the deceased to be a skilled worker and taking the income to be Rs.6,800/- per month deducted 1/4th towards personal expenses and applied the multiplier of 11. A sum of Rs.25,000/- was added towards funeral expenses and Rs.1 lac for loss of consortium, raising the total to Rs.7,98,200/-.

The submission on behalf of the appellants is that Ramesh who had appeared for the claimants was the employer and his statement has been wrongly rejected. It was urged that the sale deed of the property where Ramesh was running his motor shop was produced on record but the Tribunal rejected his statement. It was urged that Ramesh had stated that a portion of the property had been rented out to Umed and he also used to work for them and his income was around Rs.15,000/- per month. It was urged that as per ***Rajesh Kumar & Ors. Vs. Rajbir Singh & Ors. 2013 (6) SCC 563*** an addition of 50% should have been made for future prospects and no amount had been allowed for loss of love and affection.

The submission on the other hand is that there was no evidence to show that Umed was working with Ramesh and no appointment letter or record was produced and the deceased was rightly taken to be a skilled labourer. It was urged that the Tribunal had made a deduction of 1/4th and though they have not filed any cross-objections but Court can take notice of the facts that the other claimants were the sons and daughter who were in the age group of 28 – 30 years and were not dependant on Umed. It was urged that no amount could be allowed for future prospects as the deceased was a labourer/self employed nor any amount towards loss of love & affection could be granted as amount under this head is awarded for loss of love & affection for the minor children and the other claimants were major.

So far as the income is concerned, there is absolutely no evidence. The conveyance deed of the property where Ramesh Chander had his motor shop is not relevant to prove the income of Umed. There is no rent note in favour of Umed. Umed was working on a lathe machine and therefore, he was rightly taken as a skilled labourer. No increase towards future prospects could have been made as he was not a permanent employee or getting any increments. His income was taken to be that of a skilled labourer. The matter regarding addition towards future prospects for this category is pending before the larger Bench of the Supreme Court.

As regards the submission of the insurance company that the deduction should have been 1/3rd, I am not inclined to make any change as the insurance company has not filed any appeal or cross-objections.

The submission on behalf of the appellant is that children were entitled to Rs.1 lac each for loss of love and affection has to be rejected as the addition is for the minor children for care and guidance. The claimants here were adults and not dependant and adequate compensation had been allowed by the Tribunal.

There is no merit in this appeal and is dismissed.

(ANITA CHAUDHRY)
JUDGE

May 09, 2017
sunil

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