IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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RA-CR-25-CII-2016 in
FAO-4458-2002
Date of Decision: 7.11.2017

NEELAM SIKKA AND OTHERS ....APPLICANTS

VS

HARINDERJIT SINGH & ORS ....NON-APPLICANTS

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Manwinder Singh Dalal, Advocate
for the applicants-appellants.

Mr. Karminder Singh, Advocate
for non-applicant-respondent No.3.-NIC

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AJAY TEWARI, J.(Oral)

This is an application for reviewing the judgment and order dated 27.1.2016. Counsel for the applicant has argued that in this case the deceased was a government servant and the trial Court had fixed the dependency of all the three heirs as Rs. 5,000/- per month by deducting the family pension which was paid to them. In the impugned judgment, this Court set aside the approach of the trial Court in deducting the family pension but since there were two certificates showing different salary which was paid to the deceased this Court should have mentioned what was the salary to be taken but this was not so done.

The second argument raised by learned counsel for the applicant is that once the entire salary had to be taken into consideration this Court should have worked out the dependency and, since there were

3 dependents of the deceased, 1/3rd should have been deducted as personal expenses. His third argument is that even though other enhancement were made it was not clarified whether enhanced amount would carry interest and if so what amount.

Counsel for the non-applicant has in the first place argued that the points raised by the learned counsel for the applicant may furnish grounds for appeal but cannot be taken into grounds for review. On merits, counsel for the non-applicant has stated that the claimant appellant had herself claimed that the salary of the her husband was Rs. 16206/- per month whereas as per the salary certificate PW-3/1 it was Rs.15897/- per month. In the circumstances, he has argued that the salary cannot be taken more than Rs.15897/- per month.

As regards the second argument, he has not been able to dispute that dependency has not been mentioned. As regards the third point raised by the learned counsel for applicant, learned counsel for non-applicant has stated that what this Court has done in the judgment is to point out the modification which were made in the original award and therefore it follow by necessary implication that the portion which has not been modified has been upheld and in the present case since the trial Court has awarded 9% interest that would be deemed to be confirmed.

In my considered opinion, the argument regarding non-maintainability of the review application has to be rejected. It cannot be lost sight of that this is a case arising out of the death in an accident and even though these grounds could be taken in appeal, yet it cannot be also denied that these are otherwise apparent on the face of the record. As regards the salary to be considered to be taken I agree with the counsel for the non-applicant and take the salary as Rs.15897/-. As regards dependency, I order deduction of 1/3rd from the salary towards personal expenses and as regards interest also I accept the argument of the learned counsel for the non-applicant and clarify that since the amount of interest was not modified it would continue to be 9%.

Application stands disposed of.

7.11.2017 **(AJAY TEWARI)**
anuradha **JUDGE**

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Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No