

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No.706 of 2010
Date of Decision: 07.12.2018.

Jaswinder Kaur and another

...Appellants

Versus

Manjinder Kaur and others

....Respondents

CORAM : HON'BLE MR. JUSTICE B.S.WALIA

Present: Mr. Ashwani Arora, Advocate for the appellants.

Mr. Rajneesh Malhotra, Advocate for respondent No.3.

B.S.WALIA, J (Oral).

1. Appeal has been filed by the wife and father of deceased Harjit Singh, who died in a motor vehicular accident on 10.02.2008, seeking enhancement of compensation awarded.

2. Challenge is on the ground that income of the deceased was not assessed despite the fact that it had been proved on record that he was a welder having a shop and was doing job work for companies, which were making payment to him through cheques after deducting TDS. Learned counsel contends that a perusal of the documents on record i.e. form 16-A reveals the income of the deceased, therefore, the learned Motor Accidents Claims Tribunal, Rupnagar (hereinafter referred to as 'the Tribunal') erred in awarding lump sum compensation even without applying appropriate multiplier.

3. Learned counsel for the appellants contends that the Tribunal also gave a finding that on account of the widow of the deceased having remarried she was not entitled to any compensation and that the aforementioned finding was legally unsustainable in the light of decision of this Court in National Insurance Company Ltd. Vs. Nidhi Goel and others 2018 AIR (Punjab) 161 and Kavita Devi vs. Hasan Deen and others, FAO No.3226 of 2016, decided on 08.08.2018.

4. Per contra, learned counsel for respondent No.3 does not dispute that the award should have been passed after assessing the income of the deceased and after applying correct multiplier. Learned counsel further states that in the circumstances it would be in the fitness of things if the case is remanded to the learned Tribunal with liberty to the parties to argue on the issue of assessment of income of the deceased, application of multiplier method for award of compensation in accordance with law as also on the issue with regard to entitlement of the claimants to obtain compensation in the light of the decisions relied upon by the learned counsel for the appellants.

5. Accordingly, in the light of the position as noted above, impugned award is set aside qua issue Nos.4 and 5 (Issue No.4 - Whether the claimants are legal representatives of the deceased and are entitled to the compensation? If so, to what amount and from whom? OPP and Issue No.5 - Relief) and the case is remanded to the learned Tribunal with a direction to give fresh finding qua issue Nos.4 and 5 without being influenced by anything stated in this order. Needless to mention, it would be open to the parties not only to prove the income of the deceased by

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referring to the evidence already on record but it would also be open to the appellants to show that the finding with regard to non-entitlement of the appellants to the compensation on account of the widow having remarried is legally unsustainable in the light of judgments referred to above. Likewise, the respondents would be at liberty to show that the impugned finding is liable to be sustained. Parties through counsel are directed to put in appearance before the learned Tribunal on 14.01.2019.

(B.S.WALIA)
JUDGE

07.12.2018.

rajesh.k.khurana

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No