

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CM-17158-CII-2017 in/and
FAO-5419-2017 (O&M)
Date of Decision : 26.10.2018

State of Punjab and others

..... Appellants

Versus

Usha Devi and others

.... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Ms. Amarjit Kaur Khurana, D.A.G., Punjab
for the appellants.

Mr. Parminder Singh, Advocate
for the respondents.

AJAY TEWARI, J. (ORAL)

CM-17158-CII-2017

For the reasons recorded, the application is allowed. Delay of
118 days in filing the appeal is condoned.

FAO-5419-2017 (O&M)

This appeal has been filed against the award dated 07.10.2016
awarding compensation of Rs.20,45,000/- alongwith interest @ 6% p.a. on
account of death of Jiwan Kumar in a motor accident which took place on
21.08.2015.

Learned Deputy Advocate General has argued that there was no
evidence that the deceased was working as a Mason except for the
testimony of the widow and one other person. In the circumstances, the

income could only be taken as that of an unskilled labourer.

I find some weight in this argument. As per the Schedule of the Minimum Wages Act (applicable to the State of Punjab) the income for an unskilled labourer at the relevant time was Rs.6847.75/- which is taken as Rs.7000/- instead of Rs.15,000/- as taken by the Tribunal. Further the deceased was 35 years old. Consequently, I award future prospects of 40% on the income of Rs.7000/-. The multiplier of 16 and the personal expenses of 1/3rd have been correctly applied.

Learned Deputy Advocate General further points out that under the conventional heads a total amount of Rs.2,60,000/- has been awarded whereas as per the judgments of the Supreme Court in *National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009, Sureshchandra Bagmal Doshi and Another vs. New India Assurance Company Ltd. and ors., 2018 AIR (SC) 2088* and *Magma General Insurance Company Ltd., Vs. Nanu Ram @ Chuhru Ram & ors., Civil Appeal No.9581 of 2018 arising out of SLP (Civil) No.3192 of 2018, decided on 18.09.2018*, a total compensation of Rs.1.50 lakhs could have been awarded.

I find merit in this argument as well. Consequently, I reduce the amount of Rs.1,11,000/- under the conventional heads.

I further find that the interest of 6% p.a. which has been awarded by the Tribunal is very low. Consequently, in view of the judgment of the Supreme Court in *Magma General Insurance Company Ltd.'s case (supra)*, I award interest @ 12% p.a. on the total compensation amount from the date of filing of the claim petition till the date of payment.

Further I deem it appropriate to change the proportion and

direct that 50% of the compensation will be paid to the respondent No.1 and 25% each would be the share of respondents No.2 and 3. The share of 50% of the amount payable to respondent No.1 shall be put in a fixed deposit for two years and she would be entitled for the interest accrued thereon. After two years the entire amount fall in her share be released to her . The amount awarded to respondents No.2 and 3 be put in a fixed deposit till the date of attaining majority.

Appeal stands disposed of in the above terms.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

October 26, 2018
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(AJAY TEWARI)
JUDGE

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