

In the High Court of Punjab and Haryana at Chandigarh

FAO- 7734 of 2016(O&M)
Date of Decision: 18.1.2019

Harmeet Kaur and others

---Appellants

versus

Nirmal Singh and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Ms. Poonam Verma, Advocate
for the appellants

Rekha Mittal, J.

The claimants are in appeal seeking enhancement of compensation on account of death of Sewa Singh in a motor vehicular accident that took place on the intervening night of 23/24-9-2013.

The Motor Accidents Claims Tribunal, Chandigarh (in short “the Tribunal”) has awarded compensation of Rs.10,13,246/-, detailed hereunder:-

Monthly income of the deceased	Rs. 9536/-
Addition in income for future prospects	15%
Deduction for personal expenses	1/4 th
Multiplier	9
Loss of dependency	Rs. 8,88,246/-
Transportation and last rites expenses	Rs. 25,000/-
Loss of consortium	Rs. 1,00,000/-

Counsel for the appellants would urge that deceased was deployed as Security Guard in Technical Education office, Sector-36,

Chandigarh at salary of Rs. 9536/- per month and the same has rightly been taken into consideration for computing loss of dependency but the Tribunal has wrongly rejected plea of the claimants that deceased was also earning Rs. 5000/- per month by running a shop in the village. It is argued that widow of deceased appeared in the witness box to substantiate this plea and specifically deposed about the same but in cross examination her testimony in this regard was not challenged. It is further argued that claimants have filed an application for additional evidence in order to place on record affidavits of Kuldeep Kaur Sarpanch and Sharanjit Singh, Nambardar (Annexures A-1 and A-2) to substantiate plea of the claimants that deceased was running a shop in the village which was a source of income. It is further argued that no compensation has been allowed by the Tribunal in respect of expenses incurred qua medical treatment of the deceased who was shifted from the site of accident to hospital but unfortunately succumbed to the injuries.

The plea of the claimants is that deceased was working as Security Guard in Technical Education office, Sector-36, Chandigarh. It appears that the deceased was resident of village Rurki Kham, Tehsil Kharar District Mohali. No specific plea has been raised with regard to working hours of the deceased with Technical Education office, Sector-36, Chandigarh and the hours of running the shop in the village. The bald statement made by widow of deceased did not find corroboration from an independent source with regard to deceased running a shop in the village and earning Rs. 5000/- per month. The two affidavits sought to be placed on record by way of additional evidence cannot be taken into consideration unless tested by way of cross examination. No such plea has been raised in

appeal by way of additional evidence that the claimants may be allowed to examine the aforesaid witnesses. In this view of the matter, I do not find an error much less illegality committed by the Tribunal in ignoring testimony of widow of the deceased with regard to Sewa Singh running a shop in the village and earning Rs. 5000/- per month.

The Tribunal has allowed benefit of addition in income for future prospects @ 15% and Rs. 1,25,000/- under conventional heads. The application for compensation has been filed by the widow and three sons aged 48, 38 and 36 years. The Tribunal has allowed deduction for personal expenses to the extent of 1/4th. It appears that the Tribunal has taken a very liberal and magnanimous view while assessing compensation to the tune of Rs. 10,13,246/-. In the given circumstances, there is no justification for enhancement of compensation over and above what has been allowed by the Tribunal.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. As the appeal has been decided on merits, application for condonation of delay of 352 days in filing the appeal is of academic relevance.

(Rekha Mittal)
Judge

18.1.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No