

FAO-2184-2021 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.124

FAO-2184-2021 (O&M)
Date of Decision: 26.04.2024

KASHMEERA AND ORS

....Appellants

Versus

ROHITASH KUMAR BAIRWA AND ORS

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Sukhdev Singh, Advocate for
Mr. Ashish Gupta, Advocate
for the appellants.

ARCHANA PURI, J. (Oral)

CM-11128-CII-2021

The present application has been filed for condonation of delay
of 11 days in filing the main appeal.

In view of the averments made in the application, same is
allowed and delay of 11 days in filing the main appeal is hereby condoned.

CM-11125-CII-2021

Keeping in view the averments made in the application, same is
allowed.

Main case

The present appeal has been filed by the appellant/claimant,
thereby seeking enhancement of the compensation, so awarded by learned
Motor Accident Claims Tribunal, on account of death of Umardin.

Heard.

It is submitted by learned counsel appearing on behalf of the

appellants that in the present case, the claim petition was filed to seek compensation qua two widows and five children. Learned counsel further submits that he does not dispute the extent of earnings, as taken by learned Tribunal and the consequential work on of the compensation, on the basis thereof, but however, under the conventional heads i.e. loss of consortium, he seeks enhancement. Learned counsel submits that on this count only Rs.40,000/- has been given without specifying about the claimants, to whom the said amount has been granted.

Furthermore, learned counsel submits that now as per “*Magma General Insurance Company Limited v/s Nanu Ram @ Chuhru Ram and others*” 2018 (4) RCR (Civil) 333, on the count of loss of consortium, the dependents are entitled to filial, parental and spousal consortium.

Besides the aforesaid, he also submits that on the count of loss of estate and funeral expenses, as per the 10% enhancement clause, the amount may be further enhanced, as per Magma’s Case (supra), wherein Hon’ble Supreme Court had held that the dependents of the deceased, who died in a motor vehicular accident, are entitled to the compensation under loss consortium, parental, filial as well as spousal.

In the case in hand, learned Tribunal had granted only an amount of Rs.40,000/- without specifying the claimants, who are entitled to the same and in the consolidated manner, compensation so worked upon was ordered to be disbursed to the appellants/claimants.

In the given circumstances, since the deceased was having two widows, namely, Kashmeera and Batto Devi along with five children, as per Magma’s case (supra), are also entitled to the specific compensation on the count of loss of consortium.

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In these circumstances, such being the fact situation, the appeal is hereby accepted and the appellants/claimants, each, are held entitled to the prevelant amount of Rs.48,400/-, on the count of loss of consortium. The earlier amount of Rs.40,000/- also stands enhanced to Rs.48,400/- and this shall be included in the loss of consortium, to be now worked upon.

In view of the aforesaid modifications, the instant revision petition stands disposed of.

26.04.2024
Sonu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No