(1993) 01 P&H CK 0120

In the Punjab And Haryana At Chandigarh

Case No : F.A.F.O. No. 46 of 1991

Kala Devi and Others APPELLANT

Vs

Sajjan Singh and Another RESPONDENT

Date of Decision : 28-01-1993

Acts Referred:

Citation : (1994) 1 ACC 551 : (1995) ACJ 867

Hon'ble Judges : Amarjeet Chaudhary, J

Bench : Single Bench

Advocate : Jaswant Jain, for the Appellant; R.S. Bindra, Anita and Harjot Kour, for the Respondent

Final Decision : Allowed

Judgement

Amarjeet Chaudhary, J.—This is claimants'' appeal for enhancement of compensation.

2. Shorn of unnecessary details, the undisputed facts of the case which emerge from the file are that Virender Singh Yadav, D.S.P./Assistant Commandant, 79 Central Reserve Police Force Battalion, (since deceased) was travelling in jeep No. HZY 9133 which met with accident with bus bearing No. PBA 7716 owned by Municipal Corporation, Amritsar. As a result of the said accident, Virender Singh Yadav succumbed to the injuries. Kala Devi, w/o the deceased and three children, out of whom two were minors, filed claim petition before Motor Accidents Claims Tribunal, Amritsar, seeking compensation to the tune of Rs. 20,00,000/- on account of the death of Virender Singh Yadav. In this case, the deceased at the time of his death was about 40 years old. His gross emoluments were Rs. 3,139/- per month and his carry-home salary was Rs. 1,857/- per month out of which the deceased used to keep about Rs. 500/- per month for himself. The Motor Accidents Claims Tribunal assessed the monthly income of the deceased at Rs. 1,857/- and monthly dependency at Rs. 1,357/- taking into consideration the fact that the deceased must be spending at least Rs. 500/- per month on himself. A multiplier of 10 was applied and by doing so awarded a total

sum of Rs. 1,60,000/- as compensation. Aggrieved against the award, the claimants have filed this appeal.

3. The argument raised at the Bar is that while calculating the monthly income of the deceased, the deductions from the salary made towards income tax, GPF and insurance could not be segregated as these are part and parcel of the salary drawn by the deceased. The other plea is, taking into consideration the fact that the deceased was about 40 years of the age at the time of his death, a higher multiplier should have been applied by the Tribunal.

4. The respondent contested the claim and argued that the carry-home salary should be the basis for assessing the monthly income of the deceased.

5. The sole question which has cropped up for consideration is whether the gross or the carry-home salary of the deceased should be made the basis for calculating the monthly income of the deceased. After giving full consideration to the matter, this court is of the view that financial benefits like insurance, provident fund, family pension or gratuity are in essence the deferred earnings of the victim of the accident or the result of his savings. Even if no compensation is claimed, the dependants of the deceased are always entitled to the retiral benefits. In a claim application under the Motor Vehicles Act, the claimant is not to be denied the benefit of the deductions from salary like provident fund, family pension or gratuity while calculating the monthly income of the deceased. This view also finds support from the Full Bench decision of this court in Bhagat Singh Sohan Singh v. Om Sharma 1983 ACJ 203(P&H).

6. In view of the settled principle of law I am of the considered view that benefits like income tax, insurance and GPF are not to be excluded from the compensation.

7. It is proved on the record that the deceased was drawing a total salary of Rs. 3,139/- per month at the time when he met with the accident. He was posted as D.S.P./Assistant Commandant. He must be spending at least Rs. 1,000/- or more to maintain his status and Rs. 2.000/- is held to be the monthly dependency. At the time of his death, the deceased was about 40 years of age and he would have continued to hold that post but for his death up to the age of 58 years, i.e. for another 18 years. Therefore, a multiplier of 15 would be quite reasonable.

8. Calculating the annual dependency at Rs. 24,000/- and applying a multiplier of 15, the total amount of compensation to which the claimants would be entitled comes to Rs. 3,60,000/-, besides 12 per cent interest on the said amount from the date of claim petition.

