

(1993) 08 P&H CK 0178
In the Punjab And Haryana At Chandigarh

Kamlesh Devi and Others

APPELLANT

Vs

Manjit Singh and Others

RESPONDENT

Date of Decision : 26-08-1993

Acts Referred:

Citation : (1994) 1 ACC 394

Hon'ble Judges : Amarjeet Chaudhary, J

Bench : Single Bench

Judgement

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

2. The Motor Accident Claims Tribunal, Bathinda, vide its award dated 16.8.1984, had awarded Rs. 1,08,000/- to the claimants as compensation with 12% interest which was to be shared by the claimants proportionately.

3. The challenge to the award is that income of the deceased has not been correctly assessed and that a higher multiplier should have been applied by the Tribunal.

4. I have considered the submission of the learned Counsel and perused the paper book.

Kamlesh Devi widow, and Raj Kumar brother of the deceased, had deposed that monthly income of the deceased from his business of sale of lubricants was between Rs. 1500/- to Rs. 2000/-. These witnesses were not cross-examined at all. It is settled principle that version of a witness on material fact which is not challenged in cross-examination is presumed to have been admitted by the other side. The respondents have not led any rebuttal in regard to claimant's claim with regard to the monthly income of the deceased. It is not understandable as to how the Tribunal had calculated the income of the deceased to be Rs. 900/- per month. Even if for the sake of argument the income of the deceased is presumed to have been exaggerated, some reasonable concession for exaggeration should have been given. Taking into consideration the nature of the

business, I am of the view that deceased could not be earning less than Rs. 1200/- per month. Out of this amount, he must be spending 1/3rd on himself and the remaining 2/3rd on his family. The deceased had left behind, three minor children and a widow all of whom were dependent upon the deceased. Therefore, monthly dependency of the claimants is held to be Rs. 800/-. Keeping in view the age of the deceased, 16 would be a reasonable multiplier. The claimants would thus be entitled to a total sum of Rs. 1,53,600/- besides 12% interest from the date of claim petition till its realisation. Out of the amount awarded, the compensation already allowed is to be adjusted.

The appeal is disposed of in the terms indicated above. There will be no order as to costs.