**(2001) 12 P&H CK 0076**

**In the Punjab And Haryana At Chandigarh**

**Case No :** First Appeal from Order No. 1303 of 1992

Mrs. Kanwaljeet Harbhajan Singh and Others — APPELLANT

Vs

Arul Anadan and Others — RESPONDENT

**Date of Decision :** 21-12-2001

**Acts Referred:**

Motor Vehicles Act, 1988 — Section 166

**Citation :** (2002) 2 ACC 333 : (2003) ACJ 1220 : (2002) 1 RCR(Civil) 800

**Hon'ble Judges :** Mehtab S. Gill, J

**Bench :** Single Bench

**Advocate :** Kamal Sehgal, for the Appellant;

## Judgement

Mehtab S. Gill, J.—The sole question which calls for determination in this appeal is whether the amount of family pension being received by the widow can be deducted while computing the loss of dependency of the claimants.

2. This question has been settled by a judgment of Gauhati High Court reported in Saminder Kaur and Anr. v. Union of India and Anr., 1987 A.C.J 7 in which it has been held as under:

"The widow of a Government employee would be entitled to family pension under the service conditions. We do not think that it is a benefit received by the widow and the wrong-doer should be allowed to take advantage of the-family pension and gain by it."

It has been further held in Jahirabi and Others Vs. V.S. Siddalingappa and Others, by the Karnataka High Court as follows:-

"Quantum - Fatal accident - Principles of assessment-Family pension-Whether amount of family pension received per month by the widow of the deceased may be deduced while computing loss of dependency-Held, no: this amount is also payable to (he widow if her husband dies otherwise than in accident,"

3. In the present case, the learned Motor Accident Claims Tribunal, Ambala after

 

deducting amount of family pension of Rs. 1890A from the pension of the deceased which was Rs. 3900/- held that there was a decrease in the family income to the tune of Rs. 2,010/-

After, taking into account the share of the deceased held the annual dependency of the claimants at Rs.1,100/- per month and after applying a multiplier of 12, awarded a compensation of Rs. 1,58,400/-. Over and above this amount, the Tribunal also awarded Rs.10,000/- as funeral expenses. Thus, a total compensation of Rs.1,70,000/- was awarded vide award dated 12.5.1992.

4. Feeling aggrieved against the award of the Tribunal, the claimants filed an appeal in this Court which was ultimately decided by the Lok Adalat.

5. The Lok Adalat vide order dated 26.4.2000 held the dependency of the claimants of the deceased at Rs. 2,600/- per month applying a multiplier of 12, the Lok Adalat awarded a compensation of Rs. 3,74,400/- (Rs. three lacs seventy four thousands and four hundred only). Besides, the Lok Adalat also awarded Rs. 2,000/- (Rs. two thousand) as funeral expenses, Rs. 2,500/- (Rs. two thousand and five hundred) as loss of consortium.

6. The respondent, being not satisfied with this proposed order passed by the Lok Adalat of this Court filed objections as per Civil Misc. Application No. 1183-CII of 2000 and prayed that this appeal may be decided on merits according to law. In the light of judicial pronouncements, I am of the considered view that the learned Tribunal was not justified in deducting family pension while computing the dependency of the claimants of the deceased.

7. In the result, the proposed order of Lok Adalat dated 26.4.2000 is confirmed and the appellants will be entitled to the amount as worked out by the learned Lok Adalat.

8. This appeal is disposed of in the manner indicated above.

 