
(1995) 07 P&H CK 0101

In the Punjab And Haryana At Chandigarh

Case No : First Appeal From Order No. 515 of 1985

National Insurance Co. Ltd.

APPELLANT

Vs

Smt. Kamla Sharma and Others

RESPONDENT

Date of Decision : 21-07-1995

Acts Referred:

Motor Vehicles Act, 1939 — Section 110A

Citation : (1996) 112 PLR 315

Hon'ble Judges : Amarjeet Chaudhary, J

Bench : Single Bench

Advocate : B.S. Wasu, for the Appellant; H.S. Gill G.S. Gill and Raman Mahajan, for the Respondent

Final Decision : Allowed

Judgement

Amarjeet Chaudhary, J.—This judgment will dispose of F.A.O. Nos. 476 and 515 of 1985 as well as Cross Objection Nos. 77-CII and 78-CII of 1985 as these have arisen out of common award of the Motor Accident Claims Tribunal, Chandigarh. F.A.O. No. 515 of 1985 has been filed by the Insurance Company whereas F.A.O. No.476 of 1985 has been filed by Balbir Singh, driver of the offending vehicle. In both these appeals the prayer is for setting aside the award of the Tribunal whereas in Cross Objections No. 77 CII and 78 CII of 1985 filed by Kamla Sharma, claimant, the prayer is for enhancement of compensation.

2. In the appeals as well as in cross objections, the question is with regard to quantum of compensation.

3. Shorn of unnecessary details, the relevant facts are that the Motor Accident Claims Tribunal, Chandigarh, on a claim petition filed by Kamla Sharma and others, had awarded a sum of Rs. 2,40,000/- as compensation to the claimants on account of death of Parshu Ram A.S.I., who died in a vehicular accident on 7.1.1983.

4. The Tribunal while awarding the compensation calculated the income of the

deceased at Rs. 995.30p. and keeping in view the future promotion avenues assessed the income of the deceased at Rs. 1500/- per month and after deducting 1/3 rd as his personal expenses assessed the dependency of the claimants on the deceased at Rs. 1,000/- per month i.e. Rs. 12,000/- per annum. By applying a multiplier of 20, the Tribunal had awarded a sum of Rs. 2,40,000/- as compensation to the claimants alone with 12% interest. The compensation amount was to be paid by the respondents jointly and severally.

5. The plea of learned counsel for the appellants is that the dependency of the claimants on the deceased had not been properly worked out and the Tribunal had applied higher multiplier.

6. On the other hand, the plea of the claimants is that they have not been suitable compensated.

7. After having heard learned counsel for the parties and perusing the paper book, this court is of the view that the income of the deceased was rightly assessed at Rs. 995.30p. but the Tribunal fell in error in assessing the monthly income of the deceased at Rs. 1500/- Keeping in view the future avenues of promotion. The Tribunal ought not to have taken into consideration the future avenues of promotion. The settled principle of law in *Lachman Singh and Ors. v. Gurmit Kaur and Ors.* (1979) 81 P.L.R. 1 (Full Bench) is that the compensation to be assessed is the pecuniary loss caused to the dependents by the death of the person concerned. For the purpose of calculating the just compensation, annual dependency of the dependents should be determined in terms of the actual loss accruing to them due to the abrupt termination of life. For this purpose, annual earning of the deceased at the time of the accident and the amount out of the same which he was spending for the maintenance of the dependents will be the determining factor. This basic figure will then be multiplied by a suitable multiplier.

8. In this view of the matter, the future earning capacity of the deceased is not to be taken into consideration. The deceased was drawing Rs. 995-30p. At the time of his death and after deducting 1/3rd as personal expenses of the deceased, the monthly dependency of the claimants on the deceased comes to Rs. 664/-. The annual dependency comes to Rs. 7,968/-. By applying a multiplier of 20, the total compensation to which the claimants are held entitled to comes to Rs. 1,59,360/-. The claimants shall also be entitled to the interest at the rate of 12% per annum from the date of filing of claim petition.

9. The appeals are partly allowed and the award of the Motor Accident Claims Tribunals, Chandigarh is modified to the extent indicated above.

10. The cross objections filed by Kamla Sharma, claimant for the enhancement of compensation stand dismissed.

11. There will, however, be no order as to Costs.