
(2014) 02 P&H CK 0128
In the Punjab And Haryana At Chandigarh
Case No : F.A.O. 1269 of 1999 (O and M)

Nikki

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 12-02-2014

Acts Referred:

Citation : (2014) 2 RCR(Civil) 454

Hon'ble Judges : Jitendra Chauhan, J

Bench : Single Bench

Advocate : G.S. Bawa, Advocate for the Appellant; Ajay Gulati, D.A.G., Haryana and Mr. Kunal Garg, A.A.G., Haryana and Mr. Ravinder Arora, Advocate for the National Insurance Co, Advocate for the Respondent

Judgement

Jitendra Chauhan, J.—Five appeals, as noticed above, are being disposed of by this single judgment, having arisen out of the common impugned Award dated 07.11.1998, passed by the learned Motor Accident Claims Tribunal, Sirsa (for short, "the Tribunal"). In F.A.O. No. 1269 of 1999, the learned counsel for the appellants contends that the death of the deceased, Nikka Ram, occurred on account of the injuries sustained by him in the accident, which took place on 12.04.1994. In F.A.O. Nos. 1270 to 1273 of 1999, the learned Counsel has prayed for enhancement of the amount of compensation.

2. On the other hand, the learned counsel for the respondents contends that the claim petition filed on account of the death of Nikka Ram, has rightly been dismissed as the death is not relatable to the injuries suffered by him in the accident. The learned counsel have also opposed the other appeals for enhancement on the ground that the compensation already awarded is on the higher side.

3. I have heard learned counsel for the parties and perused the record.

F.A.O. No. 1269 of 1999

4. As per the record, the accident in question took place on 12.04.1994. To prove the case of the claimants, Naresh Kumar, son of the deceased, appeared as P.W.11, and stated that his father died 1 = years ago, due to the injuries sustained by him in the accident. This witness was examined on 21.11.1997, whereas the accident occurred in the year 1994, meaning thereby, that the deceased died after about two years after the accident. No postmortem report was placed on record to ascertain the cause of death. Therefore, the statement of this witness is sufficient to disbelieve the version put forth by the claimants. In the considered opinion of this Court, there is no perversity or illegality committed by the learned Tribunal in dismissing the claim petition of the claimants.

F.A.O. No. 1270 of 1999

5. This appeal relates to the injuries sustained by the appellant-claimant, Nikki Devi. The learned Tribunal has awarded an amount of Rs. 2,500/- only, spent by her on her treatment. Though, no evidence has come on record with regard to the disability or hospitalization, but as the version of the claimant to the extent of treatment is believed by the learned Tribunal, the appellant shall be entitled to another amount of Rs. 10,000/-, under the head of "pain and suffering".

F.A.O. No. 1271 of 1999

6. This case relates to the injuries suffered by claimant-appellant, Kalu Ram. It has come on record that the appellant suffered 40% disability, Ex. P62. The learned Tribunal has awarded an amount of Rs. 75,000/-, which is against the settled principle of Rs. 2,000/- for one per cent disability. Accordingly, the amount of compensation under the head disability, is enhanced from Rs. 75,000/- to Rs. 80,000/-. Furthermore, keeping in view the disability suffered and the fact that the appellant was minor at the time of the accident, the amount of Rs. 10,000/-, awarded under the head "pain and suffering" is increased to Rs. 2,00,000/-. In this way, the appellant shall be entitled to the enhanced compensation of Rs. 1,95,000/-.

F.A.O. No. 1272 of 1999

7. This case relates to the death of Vidya. The age of the deceased has been assessed at 50 years, at the time of her death. The learned Tribunal has applied the multiplier of 10, whereas, it should have been 13, in view of the law laid down by Hon^{ble} the Apex Court in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, . It is ordered accordingly. Therefore, the amount of compensation under the head loss of dependency would come to Rs. 12,000/- X 13 = Rs. 1,56,000/-, as against the amount of Rs. 1,20,000/-, assessed by the learned Tribunal. Another amount of Rs. 1,00,000/- is awarded to the appellant-husband, towards "loss of consortium". In this way, the appellant-husband shall be entitled to the enhanced compensation of Rs. 1,36,000/-, subject to his filing an affidavit in this regard.

F.A.O. No. 1273 of 1999

8. In this case, the deceased was minor son of the appellants. He was aged 1.5 years. The learned Tribunal has awarded a lump sum amount of Rs. 1,00,000/-, which in the opinion of this Court, is inadequate. Accordingly, this Court feels that the ends of justice would be adequately met, in case, another amount of Rs. 2,50,000/- is awarded to the appellants. It is ordered accordingly.

9. The enhanced compensation, as indicated above, over and above the amount already awarded by the learned Tribunal, shall be payable within a period of 45 days from the date of receipt of a certified copy of this judgment, failing which, the appellants shall also be entitled to interest @ 7.5% per annum, from the date of filing the respective appeals, till its realization. With the aforesaid modification in the impugned award, F.A.O. Nos. 1270 to 1273 of 1999, are partly allowed, whereas, F.A.O. No. 1269 of 1999, is dismissed.