

(2011) 03 P&H CK 0517
In the Punjab And Haryana At Chandigarh
Case No : FAO No. 194 and 195 of 1992

Sh. Vikas Kumar and Another

APPELLANT

Vs

Sh. Gurdev Singh and Another
 Miss Yogita Vs Gurdev
and Another

RESPONDENT

Date of Decision : 14-03-2011

Acts Referred:

Citation : (2011) 03 P&H CK 0517

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Final Decision : Allowed

Judgement

K. Kannan, J.—The appeals are for enhancement of claim of compensation for death of mother of the claimants and for injuries suffered by one of the claimants. In the same accident, the father of the claimants had also expired and there had been an independent claim for compensation. The award passed in that case is not, however, the subject of appeal.

2. As regards the claim for compensation for death of the mother, she was a Teacher aged 45 years, said to be earning Rs. 950/-. The evidence was that she was also having tuitions and earning some Rs. 400- Rs. 500/-. the Tribunal took the loss of dependency at Rs. 700/-and adopted a multiplier of 10 and awarded a compensation of Rs. 84,000/-.

3. Learned Counsel states that even apart from taking the income of the deceased as a Teacher, the value of the householder's services was taken by the Hon'ble Supreme Court in Arun Kumar Aggarwal and Anr. v. National Insurance Co. Ltd. 2010 RAJ 262 that took the value of the services to be Rs. 5000/-. The householder services would require to be definitely quantified, but since the accident relates to the year 1990, I would take the value of the contribution of services at Rs. 500/- per month and Rs. 700/-which was already taken by the Tribunal as extent of dependency. I would, therefore, proceed to take the loss of

dependency at Rs. 1200/-and adopt a multiplier of 14 instead of 10 as taken by the Tribunal. The loss of dependency for the children would be Rs. 2,01,600/-. I will also add Rs. 2500/-towards loss to estate and Rs. 2000/-towards funeral expenses and hold that the claimants are entitled to Rs. 2,06,100/-.

4. The amount in excess over what has already been awarded by the Tribunal shall attract interest @ 6% from the date of petition till the date of payment. The same shall be distributed amongst the claimant equally.

5. The liability shall be in the same manner as determined by the Tribunal.

6. The appeal is allowed to the above extent.

7. FAO No. 195 of 1992 is for enhancement of claim for compensation for the injuries sustained in the accident. She had been taken immediately to the Government Hospital at Karnal and referred to PGI. The Petitioner had opted for private treatment immediately and got herself admitted in Oswal Hospital at Ludhaina and still later at Dayanand Hospital at Ludhiana. The Tribunal had found that she had been under treatment as in-patient for nearly 2 months. She was said to have suffered injury on her head and suffered some fractures in the mouth, but it is not very clear from the evidence as to the nature of the injury in the mouth, since no Doctor had been examined to speak about the disability suffered by her. The claimant herself had stated that she had lost one year of education and it was also stated that her vision had been impaired and her memory had also been lessened. Essentially, these can be rooted only by a clinical appraisal and a Doctor's evidence, but I would still find that determination of compensation at Rs. 38,500/-in the manner in which the Tribunal had done, would be inappropriate. I will reappraise the compensation under various heads on the basis of evidence adduced. She had produced medical bills as Ex. P9 to Ex. P14 that totaled to Rs. 16,974/-. I would round-off the claim for medical expenses at Rs. 20,000/-. She had taken treatment in various hospitals, therefore, she must have spent some money for transportation and two months of hospitalization would have required also a special diet and attendant charges. Since she had suffered injury in her head and mouth, the pain component must have been also fairly high and for loss of one year of study, I would take that also be relevant for determining the compensation which is as follows:

Injury Cases

Age:

Period of Hospitalization

2 months

Occupation & Income -

Heads of Claim

Tribunal

High Court

Injury Cases

Sr.No.

Amount Rs.

Amount Rs.

1.

Loss of income from to

2.

Medical Expenses:

(i)

Medicines

20,000

(ii)

Hospital Charges

(iii)

Attendant Charges

2000

(iv)

Special Diet

2000

3.

Transport

5000

4.

Pain & Suffering ? per fracture/per surgery

20,000

5.

Disability

6.

Loss of earning capacity

Income x % of loss of earning power x multiplier

7.

Reduction in life expectancy/Loss of amenities

8.

Loss of studies

10,000

Total 38,500/

59,000/

8. The over-all compensation would be Rs. 59,000/-. The amount in excess over what has already been awarded by the Tribunal shall attract interest @ 6% from the date of petition till the date of payment.

9. The liability shall be in the same manner as determined by the Tribunal.

10. The appeal is allowed to the above extent.