

(2013) 07 P&H CK 0542
In the Punjab And Haryana At Chandigarh
Case No : FAO NO. 6665 of 2011

Smt. Lajwanti and Another	Vs	APPELLANT
Surjeet Kumar Mandal and Others		RESPONDENT

Date of Decision : 17-07-2013

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2013) 07 P&H CK 0542

Hon'ble Judges : Vijender Singh Malik, J

Bench : Single Bench

Advocate : S.K. Verma, for the Appellant;

Judgement

Vijender Singh Malik, J.—This is an appeal brought by the claimants for enhancement of compensation. Their claim petition brought u/s 166 of the Motor Vehicles Act, 1988 had been allowed by learned Motor Accidents Claims Tribunal, Jind (for short "the Tribunal"). Vide award dated 06.08.2011, a sum of Rs. 2,26,000/- has been allowed as compensation in favour of the claimants, who happened to be the parents of the deceased Bitto Singh. Bitto Singh died on account of the injuries suffered by him in a road side accident that took place on 03.06.2010. He was 22-23 years of age at the time of his death. He was working as a helper with Hari Pal, Foreman on a combine harvester and was getting Rs. 9000/- per month as salary.

2. The accident as well as the aforesaid particulars of the deceased are denied by respondent no. 3, while respondents no. 1 and 2 had been proceeded against ex-parte.

3. Learned Tribunal awarded a sum of Rs. 2,26,000/- as compensation on which he awarded interest @ 9% per annum. He had also set some terms regarding disbursement of the amount to the claimants.

4. Learned counsel for the appellants has contended that though the deceased was working as helper on combine harvester and was getting Rs. 9000/- per

month as salary, learned Tribunal has arbitrarily taken Rs. 3600/- per month as the income of the deceased. According to him, learned Tribunal had deducted ? of the amount to assess the dependency of the claimants and applied the multiplier of 10. He has further submitted that the mother of the deceased, who is the first claimant is 54 years of age and in case of death of a bachelor, if the age of the claimant-mother is 54 years, then the multiplier should be of 11 as per the decision of Hon''ble Supreme Court of India in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another,

5. Learned counsel for the appellant has further submitted that on 04.03.2010, a few months earlier to the death of Bitto Singh, the Haryana State has notified the minimum wages of unskilled labourers at Rs. 4214/- per month. According to him, even if the deceased is taken to be an unskilled labourer, his income should have been taken as Rs. 4214/- per month.

6. In this case, notice of motion was issued to the insurance company. Notice was duly served for 30.04.2012 and none appeared on that date and the insurance company was proceeded against ex-parte.

7. The income of the deceased taken by the Tribunal at Rs. 3600/- per month would not be justified if earlier to the death of Bitto Singh, the Haryana State had notified the minimum wages of unskilled labourers at Rs. 4214/- per month. So even if the deceased was taken as unskilled labourer, his salary could not be taken below Rs. 4214/- per month. Taking ? of it as monthly dependency of the claimants, the same comes to Rs. 2107/- (rounded off to Rs. 2110/-). Multiplying it with 12, the annual dependency of the claimants comes to Rs. 25,320/-. As the mother of the deceased is 54 years old, the multiplier if taken on this age, would be 11 as per Smt. Sarla Verma's case supra. Multiplying the annual dependency of the claimants with 11, I find a sum of Rs. 278520/- as lost by the claimants in the death of Bitto Singh. Adding to it, a sum of Rs. 20,000/- as allowed by the Tribunal in the name of funeral expenses, loss of estate and loss of love and affection, I find a sum of Rs. 2,98,520/- as compensation payable to the claimants. In this view of the matter, the appeal succeeds and is allowed enhancing the compensation from Rs. 2,26,000/- to Rs. 2,98,520/-, which shall be payable with interest as allowed by the Tribunal as also in the proportion and the manner as laid down by the Tribunal.