(1992) 09 P&H CK 0022

In the Punjab And Haryana At Chandigarh

Case No : First Appeal from Order No. 954 of 1984

Smt. Raghubir Kaur and Others — APPELLANT

Vs

Som Dutt and Others — RESPONDENT

Date of Decision : 10-09-1992

Acts Referred:
Motor Vehicles Act, 1939 — Section 110A

Citation : (1993) 2 ACC 252 : (1993) ACJ 671 : (1993) 103 PLR 491

Hon'ble Judges : Amarjeet Chaudhary, J

Bench : Single Bench

Advocate : P.S. Saini, S.S. Saini and Rajinder Narula, for the Appellant;

Final Decision : Allowed

Judgement

Amarjeet Chaudhary, J.—This is claimants'' appeal for the enhancement of compensation.

2. The claimants had filed a claim application before Motor Accidents Claims Tribunal, Ambala, for the grant of rupees one lac as compensation on account of the death of Manjit Singh, in a road accident on 2-5-1983. The claimants are the widow, two minor children and the parents of the deceased.

3. The accident and death of Manjit Singh in road accident is not in dispute. The only matter which requires consideration in this case pertains to the quantum of compensation to be awarded to the claimants.

4. The Tribunal had assessed the income of the deceased as Rs. 600/- per month and by spending for his own subsistence, the annual dependency of the claimants was determined as Rs. 3,600/-. Deceased at the time of his death was 26 years old, and a multiplier of 16 was applied. By doing so, the total amount of compensation came to Rs. 57,600/-. The Tribunal further slashed down an amount of Rs. 16,700/- on account of uncertainties of life and the fact that the amount was to be paid in lumpsum. The payable compensation was worked out as Rs. 40,000/-.

5. Mr. Saini, the learned counsel for the appellants had argued that the deceased (Manjit Singh) was a partner with his father in the Factory and the father used to pay him monthly Rs 1,000/- as salary. Besides that, Manjit Singh was earning Rs. 250/- per month as part time employment. As such, the income of the deceased was Rs. 1,250/- per month. According to the learned counsel, the Tribunal has not taken into consideration the total income of the deceased and also erred in applying a multiplier of 16.

6. I have given consideration to the arguments.

7. It has come in the statement of Mohinder Singh (P. W 3) father of the deceased, that he used to pay Rs. 1,000/ per month to the deceased who was partner in the factory M/s. Satsang Enterprises. The partnership deed is Exhibit P.1. The Motor Accidents Claims Tribunal had not taken into consideration the partnership deed on the ground that the same had not been produced before any assessing authority. A perusal of the partnership deed reveals that the stamp paper was purchased on 25-3-1983. In para 5 of the partnership deed it has been mentioned that both the partners were father and son and the father had agreed that he will pay Rs. 1,000/- per month to party No. 2. The evidence of Mohinder Singh, father of the deceased, cannot be brushed aside simply because he is father of the deceased. The said partnership deed was produced by him at the time of the proceedings before the Motor Accidents, Claims Tribunal. Kala Singh (P.W.-3) who is uncle of the deceased had also deposed that he used to pay Rs. 250/- per month for giving him technical aid for repairing machinery etc. The account books were maintained by Mam Raj, his Clerk. So, it cannot be said that the account books were manipulated. Taking into consideration the statement of the P.Ws. it has been proved that the deceased was earning Rs 1,250/ per month. He must be spending Rs 350/- per month on his own subsistence and the remaining Rs 900/- must be spending on his family. Thus the annual dependency of the deceased comes to Rs 10,800/- and applying a multiplier of 16, the total amount comes to Rs. 1,72,800/- But the claim is restricted to Rs. 1,00,000/- only. In view of all this, the compensation is enhanced from Rs. 40,000/- to Rs. 1,00,000/-. The claimants shall also be entitled to 12% interest from the date of filing of the application.

8. The appeal is accordingly allowed. No costs.

