

(2014) 05 P&H CK 0355
In the Punjab And Haryana At Chandigarh
Case No : FAO No. 859 of 2002 (O&M)

Smt. Sakuntla Rani and Others	Vs	APPELLANT
Balbir Singh and Others		RESPONDENT

Date of Decision : 22-05-2014

Acts Referred:

Citation : (2014) 05 P&H CK 0355

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : Pawan Sharma for Mr. Ashit Malik, Advocate for the Appellant;
Jagdish Manchanda, Advocate for the Respondent

Final Decision : Partly Allowed

Judgement

K. Kannan, J.—All the appeals are connected and arise out of the same accident. These are the cases of death of two persons and injury to one.

2. The appeal in FAO No. 859 of 2002 is a claim for enhancement of compensation for death of a male, aged 45 years. The deceased was said to be employed as a driver in Hindustan Dying & Printing Works, New Delhi—a private company, drawing a salary of Rs. 5,000/- per month. The claimants were the widow, 1 major-2 minor children and mother. The income proof brought on record showed through Ex. P2 that he was being paid salary of Rs. 3,750/- per month. The Tribunal assessed a compensation of Rs. 3,10,000/-. I shall rework the compensation on the scales provided now through the recent decisions of the Supreme Court making appropriate increase in salary in future and provide also higher sums towards loss of consortium and for loss of love and affection and I tabulate the other heads of claim as under:-

There shall be an award of Rs. 9,29,250/- and the additional amount secured through this award will attract interest at 9% per annum from the date of petition till date of payment. The additional award shall be distributed amongst the widow, children and mother in such a way that widow and children take twice

as the mother of the deceased. The liability shall be on the Insurance Company.

3. The award stands modified and the appeal in FAO No. 859 of 2002 is allowed to the above extent.

4. The appeal in FAO No. 1542 of 2002 is for enhancement of claim for compensation for death of a driver in Punjab Roadways. The deceased was said to be earning Rs. 10,000/- per month. A Clerk from the Punjab Roadways, Ropar filed documentary proof to show that the deceased was drawing a salary of Rs. 9,040/-. The Tribunal took the monthly contribution to the family at Rs. 6,000/- and assessed a compensation of Rs. 8,74,000/- as the amount payable. I shall rework the compensation and tabulate the various heads of claim as under:-

There shall be an award of Rs. 15,31,224/- and the additional amount secured through this award will attract interest at 9% per annum from the date of petition till date of payment. The additional award shall be distributed amongst the claimants equally. The right of enforcement shall be available against the Insurance Company.

5. The award stands modified and the appeal in FAO No. 1395 of 2002 is allowed to the above extent.

6. The appeal in FAO No. 1325 of 2002 is also for enhancement of claim for compensation for injuries suffered in the accident. The claimant was 55 years of age and was Senior Engineer, drawing a salary of Rs. 25,000/- per month. He had fracture of dislocation of left shoulder, compound fracture of humerus bone and was remained in bed for about 6 months. He has lost the pay for 4 months and the Tribunal has provided for the same as Rs. 72,000/-. I find that all the heads of claims have been properly provided for except that for the component of pain and suffering for fracture of dislocation of the shoulder and humerus bone, the Tribunal has provided for Rs. 10,000/- which I will raise to Rs. 20,000/-. The Tribunal has not provided for the loss of amenities and the difficulty that he would have to suffer for the rest of his life adequately, for which, I will make an additional compensation of Rs. 40,000/- against the loss of earning capacity which the Tribunal had assessed at Rs. 20,000/-. This would mean that I am providing an additional amount of Rs. 30,000/- over what was already assessed by the Tribunal and the additional compensation will attract interest at 9% per annum from the date of petition till date of payment. The appeal in FAO No. 1325 of 2002 is also allowed to the above extent.

7. In all the above three cases, I find that the claimants have approached the Insurance Company with meaningful offers for settlement as per the directions of this court, but the Insurance Company has not been prepared to move to the negotiating table for concluding the case without much ado. I find the conduct of the Insurance Company to be grossly deficient and totally uncooperative. I impose a cost of Rs. 25,000/- each in FAO Nos. 859 and 1395 of 2002 and Rs. 7,500/- in FAO No. 1325 of 2002 against the Insurance Company.