
(2016) 04 P&H CK 0207
In the Punjab And Haryana At Chandigarh
Case No : FAO No.2654 of 2013 (O&M)

Smt. Sunita Devi and others

APPELLANT

Vs

Union of India and others

RESPONDENT

Date of Decision : 21-04-2016

Acts Referred:

Limitation Act, 1963 — Section 5
Motor Vehicles Act, 1988 — Section 166

Citation : (2016) 2 LAR 598 : (2016) 3 RCRCivil 904

Hon'ble Judges : Darshan Singh, J.

Bench : Single Bench

Advocate : Surinder Gandhi, Advocate, for the Appellant; Arun Gosain, Central Government Counsel, for the Respondent

Final Decision : Partly Allowed

Judgement

Darshan Singh, J.—The appellants-claimants have preferred this appeal against the the award dated 22.11.2008, passed by learned Motor Accidents Claims Tribunal, Rohtak (hereinafter called the `Tribunal"), vide which they have been awarded compensation to the tune of Rs. 10,89,500/- along with interest at the rate of 6% per annum on account of the death of Balwan Singh in the motor vehicular accident, which took place on 12.06.2006.

2. The present appeal has been preferred by the claimants for enhancement of amount of compensation.

3. Learned counsel for the appellants contended that the deceased was a Havildar in the Indian Army. There were bright prospects of his promotion in the career and emoluments. Learned Tribunal has not awarded any future prospects. Inadequate compensation has been awarded under the other conventional heads.

4. On the other hand, learned counsel for the respondents contended that the learned Tribunal has awarded the compensation under all the heads to the claimants. The same is just compensation and no further enhancement is

justified.

5. I have duly considered the aforesaid contentions.

6. This fact is not disputed that deceased Balwan Singh was employed in Indian Army and even at the time of the accident, he was going to his work place i.e. I Corps Zone Workshop, Cantt. Area, Hisar. So, naturally there were bright prospects for the advancement of the deceased in the career as well as emoluments, but the learned Tribunal has not added anything towards future prospects to the income of the deceased. As per the statement of PW-1 Rajbir, the salary of the deceased was 9056/- per month. To make it a round figure, we can take it as 9000/- per month. As per the service record, the date of birth of the deceased was 01.03.1967. The present accident has taken place on 12.06.2006. Thus, on the date of his death, deceased Balwan Singh was 39 years, 03 months and 11 days of age. Thus, he was below 40 years of age. So, 50% of the income of the deceased is required to be added towards the future prospects. In this way, the income of the deceased comes to 13,500/- per month i.e. 1,62,000/- per annum. The deceased was having three dependents i.e. his widow claimant Sunita Devi and two minor children. So, 1/3rd of his income is to be deducted towards his personal and living expenses. The reminder comes to 1,08,000/-. Keeping in view the age of the deceased, the multiplier of 15 shall be applicable. So, the loss of dependency comes to 16,20,000/-.

7. Learned counsel for the appellants has rightly contended that very less amount has been awarded to the claimants under the other conventional heads. Only 2000/- have been awarded towards funeral expenses and 5000/- have been awarded to appellant-claimant No.1 Sunita Devi towards loss of consortium. Appellant-claimant Sunita Devi shall be entitled to 1,00,000/- towards loss of consortium. Appellants-claimants No.2 & 3, the minor children of the deceased, shall also be entitled to 1,00,000/- towards loss of love, care and guidance. The claimants shall also be entitled to a sum of Rs. 25,000/- towards funeral and transportation charges. In this way, the total amount of compensation comes to 18,45,000/-.

8. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The appellants-claimants shall be entitled to compensation of Rs. 18,45,000/- instead of Rs. 10,89,500/- as awarded by the learned Tribunal. The appellants-claimants shall also be entitled to interest at the rate as determined by the learned Tribunal on the enhanced amount from the date of filing the petition till realisation, except for the period of 1736 days i.e. the delay caused by the appellants in filing the present appeal. The liability to pay the enhanced amount shall remain as determined by the learned Tribunal in the main award.