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(1989) 07 P&H CK 0004

In the Punjab And Haryana At Chandigarh

Usha Soni and Others — APPELLANT

Vs

State of Haryana and Others — RESPONDENT

Date of Decision : 12-07-1989

Acts Referred:

Citation : (1989) 2 ACC 407 : (1989) ACJ 1035 : (1989) 96 PLR 541

Hon'ble Judges : S.S. Sodhi, J

Bench : Single Bench

Judgement

S.S. Sodhi, J.—The claim in appeal here is for enhanced compensation. The claimants being the young widow and minor children of Dr. Narinder Kumar Soni deceased who was killed on account of the injuries sustained by him when the Haryana Roadways bus HYA-1592 came from behind and hit into his scooter. This happened on the Kalka-Pinjore road at about 8-00 A.M. on November 24, 1980. Div Narinder Kumar Soni was removed to the Post Graduate Medical Institute chandigarh soon after the accident where he succumbed to his injuries on November 27,1980. The Tribunal after holding that the accident had been caused entirely due to the rash and negligent driving of the bus driver, awarded a sum of Rs. 2,01,600/- as compensation to the claimants.

2. A reference to the material on record shows that the deceased N.K. Soni was only about 39 years of age at the time of his death. He died leaving behind his young widow Usha Rani, aged 32, and two minor children, a 10 years old daughter and a son who was only 6-1/2 years old at the time. All these claimants were wholly depended upon the deceased for their maintenance.

3. Dr. Narinder Kumar Soni was the Chief Medical Officer at the Hindustan Machine Tools Factory, Pinjore where he was drawing a salary of Rs. 2162/- per month. Besides this, he was also entitled to rent free accommodation, leave travel concession, non-practicing allowance and bonus. He was also participating in the contributory provident fund, the contribution of the employer being 8.3% of his basic salary.

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4. The principles governing the assessment of compensation payable to the dependents of the deceased are those as Laid ''down by the Full Bench in Lachhman Singh v. Garmeet Kaur 1979 PLR 1 where it is observed that the compensation be assessed is the pecuniary loss caused to the dependents by the death of the deceased and for the purpose of calculating the just compensation, annual dependency of the dependants should be determined in terms of the annual loss accruing to them due to the abrupt termination of life.'' For this purpose annual earnings of the deceased at the time of the accident and the amount out of the same which he was spending for the maintenance, of the dependents will be the determining factor. This basic figure will then be multiplied by a Suitable multiplier. It was further observed that the suitable multiplier shall be determined by taking into consideration the number of years, of the dependency of the various dependents, the number of years by which the life of the deceased was cut short and the various imponderable factors such as early natural death of the deceased, his becoming incapable of supporting the dependents due to illness or any other natural handicap or calamity, the prospects of the re-marriage of the widow, the coming up of age of the dependents and their developing independent sources of income as ''well as the pecuniary benefits which might accure to the dependents on account of the death of the person concerned.

5. The judgment of the Full Bench in Lachhman Singh''s case (supra) came up for consideration before a Division Bench consisting of Chief Justice S.S. Sandhawalia and Surinder Singh, J. in Asha Rani and Ors. v. Union of India 1983 ACJ 52, where it was held that the normal multiplier would be 16 and it could rise to a maximum of 20, virtually as the outer limit. It was further observed that the primary purpose of compensation to the dependents is to provide them a consolidated fund of money which ''would continue to yield annual financial support, which the deceased was providing to his dependents, in other words, the amount which would guarantee, the availability of an equivalent annual financial income to them.

6. In assessing the fair and just compensation in the present case what has to be taken into account is not only the salary of the deceased but also the other perks that went with it. Particular mention must be made here of the provision of rent free accommodation. This is indeed a substantial benefit that the deceased and the claimants were enjoying during his life time.

7. A deduction has no doubt been made of the amount that the deceased would have spent upon himself. There can be no hard and fast rule for determining such amounts, as this is a matter to be considered in the context of the facts and circumstances of each case. Besides considering the position in life and the occupation of the deceased and the claimants and other special facts, if any, pertaining to them, it would be well to bear in mind here that in the expenses of the family on the household there are certain, but may be called inflexible items of expenditure like house rent, water and electricity charges, children''s

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education expenses, house furnishings and the like, which remains largely unaffected by the addition of a member of the family or one leaving it. Seen, therefore, in the overall context of the situation of the deceased and the claimants, the loss to the claimants in the present case clearly deserves o be assessed at Rs. 2000/- per month.

8. The question next arises as to the appropriate multiplier to be applied in the present case. 16 is, no doubt, the normal multiplier as held by the Division Bench in Asha Rani''s case (supra) but it must be appreciated here that the deceased was a medical practitioner employed as Chief Medical Officer. In the case of professional men like doctors, their span of gainful employment extends beyond the normal date of retirement of those in service, in that they can continue doing professional work till as long at they are physically capable of doing so. Keeping this aspect in view, along with the age and other circumstances of the deceased and the claimants, the appropriate multiplier in the present case must be taken to be 20. So computed, the compensation payable to the claimants would work out to Rs. 4,80,000/-.

9. The compensation payable to the claimants is accordingly, hereby, enhanced to Rs. 4,80,000/-which they shall be entitled to along with interest at the rate of 12% per annum from the date of the application till the date of payment of the amount awarded. Out of the amount awarded, a sum of Rs. 1,00,000/- each shall be payable to the minor claimants and the balance to the widow of the deceased. The amount payable to the minors shall be paid to them in such manner so the Tribunal may deem fit in their best interest. This appeal is consequently hereby accepted with costs. Counsel fee Rs. 500/-.

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