

(2014) 07 P&H CK 0544

High Court Of Punjab And Haryana At Chandigarh

Case No: FAO Nos. 4709 and 4710 of 2003 (O&M)

Parvinder Kaur

APPELLANT

Vs

Gurjot Singh

RESPONDENT

Date of Decision: July 21, 2014

Hon'ble Judges: K. Kannan, J

Bench: Single Bench

Advocate: Rajiv Dhawan, Advocate for the Appellant; H.S. Dhandi and Neeraj Khanna, Advocate for the Respondent

Final Decision: Partly Allowed

Judgement

K. Kannan, J.

Both the appeals relate to same accident in which the Scooterist died and his wife, who was pillion rider has suffered injuries. The claim for compensation for death is subject matter of FAO No. 4710 while FAO No. 4709 of 2003 is appeal for compensation assessed for injuries.

2. The accident had taken place on 17.2.2002. The deceased was aged 25 years and said to be working as mechanic in a private workshop. The owner of the workshop had been examined who gave evidence to the effect that he used to pay Rs. 4200/- per month and on the days he was doing any extra work, he used to pay him Rs. 4500/-. The Tribunal did not accept this evidence as correct, took the contribution to the family at Rs. 1500/-, applied the multiplier of 10 and assessed compensation at Rs. 180,000/-. I will not find fault with the Tribunal in not fully accepting the evidence of the owner when he ought to have had better proof of income than mere oral assertion. The technical qualification of the deceased himself was not available for the Tribunal to take income as stated by the witness. I will rework the compensation taking income at average Rs. 2500 but provide for a prospect of increase as well. I shall re-work the compensation taking multiplier of 18 and provide for loss of consortium to the wife and loss of love and affection for the parents, on the scales in the light of the some recent decisions that have been rendered recently by the

Supreme Court. The tabulation setting out various heads is as under:-

3. There shall be an award for Rs. 7,05,000/- and the amount in excess over what was awarded will also attract interest @7.5% from the date of the petition till the date of payment. The amount shall be disbursed in such a way that the wife takes 2/3rd of the compensation and the parents take 1/3rd of the additional amount. The liability shall be in the same manner as has been directed by the Tribunal.

4. The award stands modified and the appeal is allowed to the above extent.

5. In FAO No. 4709 of 2003, the claimant was the widow of the deceased, which is subject matter of the other appeal. She had a depressed skull fracture which was attended by the doctor running Jindal Nursing Home at Panchkula. She had also a fracture of the right arm which was reduced by the application of plaster. The doctor gave evidence to the effect that the claimant could not walk till the previous date when she was discharged from the hospital after 10 days. Considering the fact that she had a head injury which must have been very painful and her own lack of stability which shall require an attendant, I make provisions for attendant charges, pain and suffering and also conventional heads of special diet and transportation. The doctor who was examined gave no evidence regarding any disability as having resulted from the accident. The Tribunal wholly discarded the evidence of the doctor who said that he had charged for the hospital Rs. 39,500/- and the medical expenses must have been between Rs. 15,000- Rs. 20,000/-. There was also yet another receipt for Rs. 2,000/-. The Tribunal rejected all the evidence wholesale by general sweeping observations that there are any number of fake doctors and fake certificate issued and the credibility of the version given by the doctor itself was suspect. The Tribunal, therefore, awarded Rs. 5,000/-. The tribunal found that there had been cutting in the CAT scan report to discredit the version. I will not go as far as to completely discard the evidence and when there was claimant's own version that she had a head injury and she had also a fracture. The document, even with certain cuttings, must have been taken as a result of normal error in human activity. I will, therefore, allow for the expenses in the manner spoken to by the doctor and re-work the compensation under various heads as under:-

6. There shall be award of Rs. 94,000/- under various heads and the liability shall be on the insurance company. The additional amount brought through this award shall also attract interest @7.5% from the date of the petition till the date of payment.

7. The award is modified and the appeal is allowed to the above extent.