

(2014) 05 P&H CK 0439

High Court Of Punjab And Haryana At Chandigarh

Case No: FAO No. 1074 of 1998 (O&M)

Manjit Kaur and Others

APPELLANT

Vs

Subesh Singh and Others

RESPONDENT

Date of Decision: May 28, 2014

Hon'ble Judges: K. Kannan, J

Bench: Single Bench

Advocate: G.S. Bawa, Advocate for the Appellant; Neeraj Khanna, Advocate for the Insurance Co, Advocate for the Respondent

Final Decision: Allowed

Judgement

K. Kannan, J.

All the appeals are connected and are disposed of by a common order.

2. The appeal FAO No. 1074 of 1998 is for enhancement of compensation for death of a male aged 28 years. The accident had taken place on 25.10.1993. The claimants were widow, minor son and parents. It was stated that the deceased was a mechanic working in Sardoolgarh but finding that there had been no document placed on record about his status as a mechanic or that he was having any shop in Sardoolgarh, the tribunal took his income at 1200/- per month equivalent to an un-skilled worker. I will have no reason to re-assess the head of income. The tribunal assessed a compensation of Rs. 1,53,600/-. I shall re-work the compensation under various heads, taking note of the decisions that have been now rendered in making possible a prospect of future increase and allowing for a larger sum towards loss of consortium and loss of love and affection. The various heads of compensation are tabulated as under:-

3. There shall be an award of Rs. 4,39,300/-. The amount in excess of what has already been granted by the Tribunal shall attract interest at the rate of 7.5% per

annum from the date of petition till the date of payment. The liability shall be on the Insurance Company. The amount shall be distributed amongst the widow, minor son and parents in the ratio of 2:2:1:1.

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

5. FAO No. 1076 of 1998 is for injuries suffered in the motor accident by the claimant. It was brought out in evidence that he lost three teeth and the claimant contended that he had spent about Rs. 20,000/-. However there were medical bills to the tune of only Rs. 1300/- but the tribunal therefore provided for a compensation for Rs. 1500/-. I find the assessment to be grossly inadequate. A person who has lost three teeth will be compelled to go for dentures and each one of the teeth could cost around Rs. 7500/-. There is a component of pain and suffering that must be provided for considering the fact of replacement of denture over a period of time and the pain which he had suffered for loss of teeth. I will provide for a total sum of Rs. 25,000/- which will include medical expenses already assessed. The amount in excess of what has already been granted by the Tribunal shall attract interest at the rate of 7.5% per annum from the date of petition till the date of payment.

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

7. FAO No. 1075 of 1998 is for damage to the jeep which was involved in the accident. The claimant has stated that he got it repaired in Sirsa and he had examined several persons to testify about the extent of damage and expenses that he had incurred. The tribunal discarded all the evidence awarded a compensation of only Rs. 5,000/-. The appeal is therefore for enhancement.

8. PW-5 Jarnail Singh who claimed to be a mechanic estimated the expenses that would required to be done at Rs. 40630/-. The document brought by him makes an estimate and cost of repair which were mark 2 to mark 5 had not been exhibited and the tribunal found that the document had not been proved. I will not require any further proof in summary proceedings. I have no reason to suspect that either the estimate or the actual expenses shown to have been incurred by him as evidenced from the marked document could be rejected. The claimant had also examined PW-6 a painter who had stated that he had estimated at Rs. 12,000/- and the document was Annexure P-7. The four seats had also been changed PW-7 who gave evidence to the effect that he had charged Rs. 4700/-. PW-8 Mohinder Singh was examined and he had stated that he had changed the electric fittings. And he had charged Rs. 4180/-. I will find that the aggregate of this should be Rs. 20880/-. There is simply no reason for the Court to discard this document and provide for a meager sum of Rs. 5,000/-. I will enhance the compensation to Rs. 61,000/- on the basis of documents produced and it shall be award which the claimants obtain and enforce against the respondents. The amount in excess of what has already been granted by the Tribunal shall attract interest at the rate of 7.5% per annum from the date of petition till the date of payment.

9. The awards stand modified and the appeals is allowed. All the appeals shall have the remedies to work out against the Insurance Company.