

(2014) 05 P&H CK 0523

High Court Of Punjab And Haryana At Chandigarh

Case No: FAO No. 1238 of 1994

Vipul Chanana and Another

APPELLANT

Vs

Avtar Singh and Others

RESPONDENT

Date of Decision: May 8, 2014

Hon'ble Judges: K. Kannan, J

Bench: Single Bench

Advocate: Neeraj Khanna, Advocate for the Appellant; R.C. Kapoor, Advocate for Respondent No. 3, Advocate for the Respondent

Final Decision: Allowed

Judgement

K. Kannan, J.

The appeal is for enhancement of compensation for death of a male aged 44 years. The accident took place on 31.10.1990. The claimants were widow and two sons. Against the claim made on the basis that the deceased was earning Rs. 14,000/- per month, the tribunal assessed the income at Rs. 4,000/- per month and determined a compensation of Rs. 4,80,000/-.

2. The deceased was said to be a proprietor of M/s. Hira Filters and M/s. Precision Engineering Works. The evidence of PW-1 and PW-3 was that on account of his death the other factory namely M/s. Precision Engineering Works which was dependent on M/s. Hira Filters was closed down. The copy of profits earned by M/s. Hira Filters in the year 1990 was produced to assign Mark A. His son PW-3 admitted that his father has raised a loan from Himachal Pradesh Financial Corporation on 16.1.1993. He received a letter from HMT Pinjore that he has not supplied the materials. Several letters and communications were produced to show that the business had closed on account of death of the father. In a case where the deceased was a business man having engineering works I will take the average income to be Rs. 10,000/- per month and make a provision for prospect of increase as well. I re-work the compensation by applying the principles relating to provision for increase and also provide for loss of consortium and loss of love and affection in the

manner that are being done in some of the recent cases of the Supreme Court. The various heads of compensation are tabulated as under:-

The total compensation payable shall be Rs. 18,53,000/-. The amount shall be distributed amongst the claimants equally. The amount in excess of what has already been granted by the Tribunal shall attract interest at the rate of 9% per annum. In this case the claimants had even made a proposal for settlement which is even less than what this Court has determined but if only the Insurance Company had moved towards the negotiating table for a reasonable settlement there would have been no need for forcing an adjudicatory process an adversarial approach. The conduct of the insurer was unfortunate and wholly un-cooperative.

2. The award is modified and the appeal is allowed and compensation is enhanced as above with costs assessed at Rs. 25,000/-.