

(2014) 07 P&H CK 0756

High Court Of Punjab And Haryana At Chandigarh

Case No: FAO No. 2106 of 2012 (O&M)

Savitri Devi

APPELLANT

Vs

Ravinder

RESPONDENT

Date of Decision: July 18, 2014**Citation:** (2014) 07 P&H CK 0756**Hon'ble Judges:** K. Kannan, J**Bench:** Single Bench**Advocate:** Sumit Sangwan, Advocate for the Appellant; Rajesh Sheoran and Kanwal Goyal, Advocate for the Respondent**Final Decision:** Partly Allowed

Judgement

K. Kannan, J.

The appeal is for enhancement of claim brought at the instance of the parents of the deceased for compensation as assessed for the death of a male aged 30 years plus. He was working in the Indian army as a Sepoy, earning Rs. 15,436/-. The Tribunal assessed the compensation at Rs. 22,42,848/-. While granting compensation, it has duly factored the prospect of 30% increase, but made a deduction of 30% as a component of income tax. After determining the compensation, the parents had been awarded Rs. 2 lakhs each and rest of the amount has been directed to be made to the wife and the minor son.

2. As regards assessment of loss of dependence, I find that the deduction made at 30% for an income with prospective increase of Rs. 23,100/- is on the higher side. I take an average income tax to be 15%, take the multiplier as already applied by the Tribunal and assess the contribution to the family. Though father is not a legal heir under the Hindu Succession Act, in the presence of the mother of the deceased, social conditions dictate differently and the Motor Vehicle Act provides for not only to the legal heirs but it also gives wider expression through the term legal representatives. The Tribunal has assessed Rs. 2 lakhs each for the parents and the counsel pleads that at least 1/4th of the amount shall be paid out of the total amount assessed instead of roughly the amount

of 1/5th taken by the Tribunal. The counsel also submits in fairness that if the court would make re-assessment of the compensation taking a component of love and affection as well and also provide for larger of compensation for contribution by assessing low percentage of tax, the increase of compensation brought through such a reappraisal could be worked out on that basis by awarding 3/4th to the wife and the child and 1/4th of the additional amount to the parents together. I have assessed the compensation afresh after taking into account the submissions and tabulate as under:-

3. There shall be award of Rs. 28,640,50/-. The amount in excess over what has already been awarded will also attract interest @ 7.5% per annum from the date of the petition till the date of payment. The additional amount determined shall be distributed in such a way that 3/4th of the same shall be paid equally to the widow and son and 1/4th shall be paid to the parents.

4. Considering the fact that the death had taken place in the year 2009 and I have applied for multiplier of 16, I direct that as regards the share of the parents the whole amounts shall be allowed to be withdrawn without any direction for deposit.

5. As regards the share of the minor, the same is directed to be deposited in a nationalized bank during the entire period of minority and 75% of the same shall be permitted to be withdrawn on his attaining the age of majority and 25% shall be deposited in a nationalized bank for a further period of three years by splitting the same for three equal portions, the 1st portion for a period of one year and the 2nd portion for a period of two years and the third portion for a period of three years. The amount shall be disbursed to the son on the date when he attains majority directly by the bank and under the advice to the Tribunal.

6. As regards the share of the widow, 40% of the amount shall be permitted to be withdrawn and the rest of 60% shall be splitted into eight portions, 1st portion for a period of one year, the 2nd portion for a period of two years and so on for eight years. The direction for disbursement shall be in the same manner as has been given above as regards the son.

7. An amount of Rs. 15,000/- is directed to be paid to the Amicus Curiae from out of the amount deposited to the credit of the case and the same be issued by means of a cheque by the Tribunal soon after the deposit and transmitted to this court for disbursal to the counsel.

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