

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No.4041 of 2003

Date of decision: 19th February, 2015

Sonia and others

... Appellants

Versus

Bikram Chand and others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Neeraj Khanna, Advocate
for the appellants.

Service of respondents No.1 and 2 – dispensed with.

Mr. R.K. Bashamboo, Advocate – Standing Counsel
for respondent No.3.

FATEH DEEP SINGH, J.

Not satisfied over the Award dated 07.03.2003 passed by the learned Motor Accident Claims Tribunal, Panchkula, claimant/appellants have knocked at the doors of this Court in this appeal.

The sole ground raised by Mr. Neeraj Khanna, Advocate representing the claimant/appellants is over the meagerness of compensation as even the factum of accident to be an outcome of rash and negligent driving of the offending truck is not at all disputed.

From the arguments of the two sides it is by no means disputed and rather is well established on the records (though the original records stood destroyed in the fire) that the deceased Ashwani Kumar was a Constable in Haryana Police and his proven salary as per the salary certificate Ex.PB is shown to be ₹6,462 per month. The claimants are the widow, two minor children and the widowed mother and the inter-se relationship has never been put to question and so the age of the deceased which is proven to be around 34 years. Learned Tribunal in the light of the submissions as is evident has deducted 1/3 of these earnings for the own upkeep and maintenance of the deceased which is certainly on the higher side keeping in view number of the family members who are dependants which ought to be 1/4 as per the ratio laid down in '**New India Assurance Company Ltd. v. Gopali and others**' reported in **2012 (3) RCR (Civil) 818**.

It has been rightly contended on behalf of the respondent-insurer by Mr.R.K. Bashamboo that the learned Tribunal has wrongly applied the multiplier of 17 and Mr.Neeraj Khanna squarely accepts that it ought to be 16 in view of '**Sarla Verma & others v. Delhi Transport Corporation & another**' reported in **2009(6) SCC 121**. Thus, considering all these aspects the deceased in all eventuality must be contributing ₹4,600 per month to the running of the household and therefore, annual dependency comes to ₹55,200. Applying the multiplier of 16, the compensation comes to ₹8,83,200. It has been contended on behalf of the appellants which could not be controverted by the respondent's counsel that not much has been awarded under

the conventional heads for which a sum of ₹10,000 has been given by way of funeral expenses, and which argument of the appellants' counsel certainly needs to be accepted having regard to the fact that widow has lost her husband and is entitled to compensation on account of loss of consortium, the family has lost its sole bread earner, a source of love, affection as well as protection and ought to be compensated for the same, besides for the expenses incurred on the last rites and ceremonies and under all these conventional heads by some amount of guess work and hypothetical calculations the claimants are awarded a sum of ₹2.00 lacs. Therefore, total compensation comes to ₹10,83,200 (rupees ten lacs eighty three thousand two hundred).

Besides this, the claimants are also entitled to interest @7.5% p.a. on the enhanced amount from the date of filing of the appeal till realization. Interim compensation paid, if any, shall be adjusted. Rest of the stipulations laid down by the Tribunal need not be disturbed. However, if any of the minor claimants has attained majority, his/her share shall not be resorted to by way of FDR.

With this, the impugned Award is modified by way of acceptance of the instant appeal in those terms.

(FATEH DEEP SINGH)
JUDGE

February 19, 2015
rps