417 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1) FAO No.1625 of 2002 (O&M)
Decided on: 25.8.2015.

Kanchan and others
... Appellants
Versus

Raj Kumar and others ... Respondents

(2) FAO No.2178 of 2002 (O&M)

Smt. Suman and another
... Appellants
Versus

Raj Kumar and others
... Respondents

CORAM : HON'BLE MR. JUSTICE K. C. PURI

Present : Mr. R.K. Saini, Advocate,
for the appellants in FAO No.1625 of 2002.

Mr. Sachin Mittal, Advocate
for the appellants in FAO No. 2178 of 2002.

Mr. Suvir Dewan, Advocate,
for the insurance company.

K.C.PURI.J.(ORAL)

Vide this judgment, aforesaid two appeals (i) FAO No. 1625 of 2002 titled as 'Kanchan and others vs. Raj Kumar and others' and (ii) FAO No.2178 of 2002 titled as 'Suman and another vs. Raj Kumar and others' are being disposed of as both of them have arisen out of the same Award dated 15.12.2001 passed by Sh. B.L. Singal, Motor Accident Claims Tribunal, Jind (for short "the Tribunal").

Kanchan widow, Ashima minor daughter, Ajianka minor son and Raj Rani mother of deceased Surinder Kapoor filed claim application claiming compensation on account of death of Surinder Kapoor in a motor vehicular accident. Learned Tribunal after adjudication allowed a sum of Rs.3,75,000/- on account of death of Surinder Kapoor in the said accident.

Suman widow, Rishit minor son, Rati Ram father and Smt. Malti mother of deceased Narinder filed claim application claiming compensation on account of death of Narinder in that motor vehicular accident and a sum of Rs.3,45,000/- was allowed.

Feeling dis-satisfied with the quantum of compensation, Kanchan etc. and Suman etc. have directed FAO No.1625 of 2002 and FAO No.2178 of 2002 respectively.

FAO No. 1625 of 2002

The Tribunal has taken the age of the deceased as 30 years. The income of the deceased was taken as Rs.3000/- per month. The dependency was taken as Rs.2000/- per month. The yearly dependency was taken as Rs.24,000/-. Multiplier of 15 was applied and the amount calculated was Rs.3,60,000/-. A sum of Rs.5000/- was allowed in respect of consortium. Another sum of Rs.7000/- was allowed in respect of transportation and funeral expenses and another sum of Rs.3000/- was allowed in respect of loss of estate and in this manner, the compensation of Rs.3,75,000/- was allowed to the claimants.

I have heard learned counsel for both the sides and have gone through the case file.

Learned counsel for the appellants has submitted that income tax return has not been taken into account. The income of the deceased has been taken as Rs.3000/- per month. Future prospects has also not been taken into account. The amount granted in respect of funeral expenses and consortium is on lower side.

Learned counsel for the insurance company has supported the Award passed by the Tribunal.

The income tax return for the year 1996-97 shows that income of the deceased was Rs.44,000/- per annum out of which income of Rs.1920/- was from house property and income of Rs.42,081/- was from business profit and a sum of Rs.800/- was paid as income tax. In the year 1997-98, the income of the deceased has been mentioned as Rs.42,890/- out of which income of Rs.1920/- was from the house property whereas income of Rs.40,970/- was from business profit. A sum of Rs.450/- is shown to have been paid as income tax.

From the income of house property, the deceased was not contributing anything to the family. So, after deducting the amount of income tax, the income of the deceased is taken as Rs.40,000/- per annum. The deceased was 30 years old and as such by adding 50% in respect of future prospects, the income of the deceased is taken as

Rs.60,000/- per annum. The claimants are four in number so, deducting 1/4th in respect of personal expenses in view of authority **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another 2009(6) SCC 121,** the dependency of the claimants comes to Rs.45,000/- per annum. The deceased was 30 years old and as per **Sarla Verma's case (supra),** multiplier applicable at the age of 30 years, is 17. So, by applying that multiplier, the amount of compensation comes to Rs.7,65,000/-.

The amount in respect of funeral expenses, consortium and loss of love and affection has to be allowed keeping in view the price index prevailing in the year 1998 so, a sum of Rs.15,000/- stands allowed in respect of expenses on last rites and transportation of body. The claimants are also held entitled to claim Rs.30,000/- in respect of consortium and minor children and other claimants are held entitled to claim Rs.30,000/- in respect of loss of love and affection. In this manner, the claimants are held entitled to claim total compensation of Rs.8,40,000/-.

Out of the enhanced amount, 50% amount shall be paid to the widow and the remaining amount shall be shared by the remaining claimants in equal share.

FAO No.2178 of 2002

The deceased Narinder was working as a Teacher and his salary was Rs.2448/-. The deceased was 30 years old and as such

50% amount has to be added in respect of future prospects. So, by adding 50% amount, the income of the deceased is taken as Rs.3672/- per month. The claimants are four in number so, by deducting 1/4th in respect of personal expenses, the dependency comes to Rs.2754/- per month. The yearly dependency comes to Rs.33,048/-. The multiplier of 17 is applicable at the age of 30. So, by applying that multiplier, the amount of compensation comes to Rs.5,61,816/-. A sum of Rs.15,000/- stands allowed in respect of expenses on last rites and transportation of body. The claimants are also held entitled to claim Rs.30,000/- in respect of consortium and minor children and other claimants are held entitled to claim Rs.30,000/- in respect of loss of love and affection. In this manner, the claimants are held entitled to claim total compensation of Rs.6,36,816/-

In both the appeals, enhanced amount shall carry interest @ 7.5% per annum from the date of filing claim application till payment. The liability to pay the amount shall be the same as ordered by the Tribunal. If any of the claimants is still minor then the amount of his share shall be deposited in the shape of FDR in some nationalized Bank in such a manner that he/they may fetch maximum rate of interest and the amount shall be paid to the minor claimant(s) on his/their attaining majority without the intervention of the Court.

Both the appeals are disposed of accordingly.

25.8.2015. **(K.C.PURI)**
SN **JUDGE**