

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No.1103 of 1991(O&M)
Date of Decision: 24.04.2015

Satwant Kaur and others

..... APPELLANTS

VERSUS

Mani Ram and others

..... RESPONDENTS

FAO No.973 of 1991

Kashmir Singh and others

..... APPELLANTS

VERSUS

Mani Ram and others

..... RESPONDENTS

FAO No.974 of 1991

Jit Kaur and others

..... APPELLANTS

VERSUS

Mani Ram and others

..... RESPONDENTS

FAO No.975 of 1991

Kashmir Singh and others

..... APPELLANTS

VERSUS

Mani Ram and others

..... RESPONDENTS

PRESENT: - Mr. Kamalpreet Kaur, Advocate
for the appellants.
(In FAO No.1103 of 1991)

Mr. S.M. Sharma, Advocate
for the appellants.
(In FAO Nos.973 to 975 of 1991)

Mr. D.R. Bansal, Advocate
for respondent No.3.

CORAM: **HON'BLE MR. JUSTICE SHEKHER DHAWAN**

- 1) Whether Reporters of the local papers may
be allowed to see the judgment?
- 2) To be referred to the Reporters or not?
- 3) Whether the judgment should be reported in
the Digest?

SHEKHER DHAWAN, J.

This order will dispose off above detailed four appeals by this single judgment, having arisen out of the same award dated 14.12.1990 passed by Motor Accident Claims Tribunal, Sirsa (hereinafter referred to as 'The Tribunal').

Taking the case from undisputed facts that Motor vehicle accident took place on 02.08.1989 involving four-wheeler No.HYN-2475 and truck No.DIL-1842. The said truck was being driven by respondent No.1 and the said accident resulted into death of Fateh Singh, Bhagwan Singh, Bhajan Singh and injuries on the persons of Jit Singh, Piara

Singh and Kashmir Singh. The matter was reported to the police. The claimants claimed the compensation.

The respondents contested the claim petitions on all accounts.

'The Tribunal' after framing of issues and recording of evidence decided all the claim petitions vide single award dated 14.12.1990. All the four appeals are against the said award.

In FAO No.1103 of 1991

Ms. Kamalpreet Kaur, learned counsel for the appellants took the plea that 'The Tribunal' has not awarded 'just compensation' as only a meagre amount has been awarded on account of funeral expenses and consortium whereas nothing was awarded on account of love and affection.

While arguing on this point, Mr. D.R. Bansal, learned counsel for respondent No.3-Insurance Company took the plea that earlier an application was moved and the Court had passed the discharge order, as such, it was not a case of rash and negligent driving on the part of driver of the truck.

However, while arguing on this point, learned counsel for the appellants took the plea that these pleas cannot be taken by the respondents in appeal having been

filed by the appellants-claimants because no cross-appeal has been filed by the Insurance Company.

Learned counsel for the respondent-Insurance Company took the plea that such legal pleas can be taken while arguing the matter in appeal as well.

Having heard the rival contentions, this Court is of the considered view that there is no dispute that appeal has been filed by the claimants and no cross-appeal has been filed by the Insurance Company. 'The Tribunal' has already recorded the findings that the accident had taken place because of rash and negligent driving of respondent No.1 while driving truck No.DIL-1842.

'The Tribunal' placed reliance upon testimony of Kashmir Singh, who got injured in this accident and made deposition before 'The Tribunal' that at about 9/9.30 P.M. six persons, namely, Piara Singh, Jit Singh, Bhajan Singh, Bhagwan Singh and Fateh Singh were coming from Bhatinda for village Ottu in a four-wheeler No.HYN-2475 and when they reached near barrier Dabwali, a truck bearing No.DIL-1842 was going ahead of them and the said truck stopped all of a sudden without giving any indication. There was no back light of the truck when the truck driver stopped it in the middle of the road and, as such, the accident had taken place because of rash and negligent driving of driver of the

truck.

The above mentioned persons sustained injuries and Bhagwan Singh and Fateh Singh died in Civil Hospital at Dabwali whereas Bhajan Singh was taken to Medical Hospital, Rohtak where he succumbed to the injuries.

'The Tribunal' had recorded observation that as per this witness, the truck was stopped in the middle of the road. It has also come in the statement of RW-3 Rattan Singh, who was making statement on the basis of record that no order for cancellation of the case was received from the Court. 'The Tribunal' has recorded positive finding that the truck stopped in the middle of the road without giving any indication and because of rash and negligent driving of driver of the truck, the accident had taken place. The said findings do not call for any interference.

As regards to amount of compensation, 'The Tribunal' has awarded compensation keeping in view the injuries caused to the injured and earnings and loss of income to the claimants, in case of deceased persons. However, it has to be examined whether 'The Tribunal' has awarded 'just compensation' in the case or not.

In FAO No.1103 of 1991, death of Fateh Singh had taken place, who was of the age of 35 years. The income of the deceased was taken to be ₹350/- per month

and annual income was worked out to be ₹4,500/-. Keeping in view the fact that the accident had taken place on 02.08.1989, the multiplier of 13 was correctly applied and an amount of compensation comes to ₹81,000/-. However, 'The Tribunal' has not awarded any amount of compensation on account of funeral expenses, loss of consortium etc.

In the present case, the claimants are certainly entitled to receive a sum of ₹25,000/- on account of funeral expenses and another sum of ₹1 lac on account of loss of consortium as one of the claimants is widow of deceased Fateh Singh. The enhanced amount of compensation in this case shall be ₹1,25,000/- as per laid down by Hon'ble the Supreme Court in case of **Rajesh and others Vs. Rajbir and others**, 2013(9) SCC 54.

In FAO No.973 of 1991

In this case death of Bhagwan Singh had taken place, who was of the age of 35 years as per post-mortem report Ex.P-5. The monthly income of the deceased was rightly taken to be ₹550/- and after decuding amount on account of self dependency, the monthly income was rightly taken to be ₹375/- per month and the annual loss of income was worked out to be ₹4500/- keeping in view the fact that the accident had taken place on 02.08.1989. The multiplier of 13 was correctly applied keeping in view the age of the

deceased and the amount of compensation was correctly worked out to be ₹81,000/-. However, 'The Tribunal' has not awarded any amount of compensation on account of funeral expenses, loss of consortium etc.

In the present case, the claimants are certainly entitled to receive a sum of ₹25,000/- on account of funeral expenses and another sum of ₹1 lac on account of loss of consortium as one of the claimants is widow of deceased Bhagwan Singh. The enhanced amount of compensation in this case shall be ₹1,25,000/- as per laid down by Hon'ble the Supreme Court in case of **Rajesh and others Vs. Rajbir and others**, 2013(9) SCC 54.

In FAO No.974 of 1991

In this case, death of Bhajan Singh had taken place, who was of the age of 45 years. At the time of accident, his annual income was correctly taken to be ₹4500/- after decuding the amount on account of self dependency. Multiplier of 16 was correctly applied keeping in view the age of the deceased and the amount of compensation awarded was ₹72,000/-. However, 'The Tribunal' has not awarded any amount of compensation on account of funeral expenses, loss of consortium etc.

In the present case, the claimants are certainly entitled to receive a sum of ₹25,000/- on account of funeral

expenses and another sum of ₹1 lac on account of loss of consortium as one of the claimants is widow of deceased Bhagwan Singh. The enhanced amount of compensation in this case shall be ₹1,25,000/- as per laid down by Hon'ble the Supreme Court in case of **Rajesh and others Vs. Rajbir and others**, 2013(9) SCC 54.

In FAO No.975 of 1991

In this case, claimant Kashmir Singh has sustained injuries but there was no evidence before 'The Tribunal' to return the findings that he has suffered any permanent disability. 'The Tribunal' had awarded compensation to the tune of ₹10,000/- on account of pain and suffering, ₹2200/- on account of loss of earnings and ₹4800/- on account of medical expenses and special diet etc. The total awarded amount of compensation was ₹17,000/-. However, in this case, 'The Tribunal' has not awarded 'just compensation'. Although the claimant has sustained fracture injuries and had to remain as indoor patient. Certainly, he is entitled to enhanced compensation on account of pain and sufferings, medical expenses and attendant charges as well. So, the amount of compensation in this case enhanced by ₹30,000/-.

In all these above appeals, the enhanced amount of compensation shall be payable by respondent No.3-

Insurance Company within a period of one month from today, failing which the claimants shall be entitled to recover interest @7.5% per annum from today.

All the four appeals are partly accepted.

(SHEKHER DHAWAN)
JUDGE

April 24, 2015
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