

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

FAO No. 1685 of 2002(O&M)

Date of decision: 31.08.2015

Satto and others ... Appellants

versus

Darbara Singh and others Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Ashit Malik, Advocate for the appellants.

Mr. Navin Kapur, Advocate for respondent No.3.

K.Kannan, J.

The appeal is for enhancement of compensation for death of a male claim to be 50 years of age in a claim petition filed by the widow, 5 minor children. He was said to be a fruit vendor and killed in an accident when he was doing his avocation of selling the fruits in a mobile unit. The postmortem certificate revealed that he was 60 years of age and postmortem certificate has preferred for the assessment of age to the oral assertion made to the contrary that he was 50 years of age. The widow gave an evidence that her husband used to get her Rs. 5,000/- to Rs. 6,000/-. The Court took the income at Rs. 1,800/- and made a deduction of Rs. 400/- and took the contribution at Rs. 1,400/- per month, adopted a multiplier of 8 and after providing for loss of consortium of Rs. 5.600/- granted the compensation of Rs. 1,40,000/-.

I re-assess the compensation in the scales provided by the judgment of Supreme Court in Sarla Verma Vs. Delhi Transport Corporation, 2009 (3) RCR (Civil) 77, make an increase in sum of loss of

consortium to the wife and loss of love and affection to each child at Rs. 50,000/- against Rs. 1,00,000/- which is being now ordered. I believe that since the accident is of the year 1999, a provision at Rs. 50,000/- with interest provided from the date of the petition will take care of the increased sums which are now being assessed. The deceased had 3 major daughters and one son but they have not being made parties in the case. The case cannot be dismissed on this ground but I will take it that the mother was not prepared to treat that as dependants on the deceased. The amount which I proceed to assess will be received by the widow as a trustee so far as the claim to loss to estate that the major child might have. Considering the size of the family I take the average income at Rs. 5,000/- make a deduction of 1/4th and take the contribution to the family at Rs. 3,750/-. The several heads of claim are tabulated as under:

	Date of accident 18.02.1999		
Age	50		
Occupation	Fruit vendor		
Claimants	Widow, minor children		
SR. No.	Heads of claim	Tribunal Amount (Rs.)	High Court Amount (Rs.)
1	Income	1,800	5,000
2.	Add, % of increase, 30%/50%		
3.	Deduction, 1/2, 1/3, 1/4,	1/4	3,750/-
4.	Multiplicand	1400x12	45,000/-

5.	Multiplier	8	8
6.	Loss of dependence		3,60,000/-
7.	Medical Expenses		
8.	Loss of Consortium	5,600	50,000/-
9.	Loss of love and affection (50,000 X 5)		2,50,000/-
10.	Loss to estate		5,000/-
11.	Funeral Expenses		5,000/-
	Total	1,40,000/-	6,70,000/-

The total compensation shall be Rs. 6,70,000/- and that will be distributed in the ratio of 3:2:2:2:2:2 and provide apportionment for the widow treating her as a person who will act as a trustee for 3 of the major children and if demanded she will become answerable for 1 extra share that she has got on behalf of 3 major children. The additional compensation shall also attract interest @ 7.5% from the date of the petition till the date of payment. The liability shall be in the same manner as determined by the Tribunal.

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

(K.KANNAN)
JUDGE

31.08.2015
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