

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

FAO No.374 of 1991 (O&M)

Date of decision: 26.08.2015

Jaswinder Kaur alias Jasminder Kaur and others Appellants

versus

Kanhaiya Lal and others Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Ms. Harveen Kaur, Advocate,
for the appellants.

Mr. R.C. Gupta, Advocate,
for respondent No.3.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ?No.

K.Kannan, J. (Oral)

1. The appeal is for enhancement of claim for compensation for death of a male, aged 45 years. He was said to be a Security Guard at the State Bank of Patiala, earning ₹1,272/-. The compensation had been assessed at ₹1,53,600/-. The Insurance Company claimed a limited liability making reference to the provisions of the Motor Vehicles Act, 1939.

2. Taking the income at ₹1,272/- as brought out through the income certificate, I will make a provision for a prospect of

increase at 30% considering the fact that the deceased was 45 years of age. I will provide for a multiplier of 14 and redetermine the compensation. In the manner of assessment of conventional heads of claims like loss of consortium to the wife, loss of love and affection to the children, I will take the amount at ₹50,000/- each, considering the fact that the interest component from the year 1998 till the date when the appeal is now being disposed of will take care of the amount at the rates which are now being ordered by all the Courts or Tribunals. I will set out the schedule giving the various heads of claims and assess the compensation as under:-

Accident	20.04.1988		
Age	45		
Occupation	Security Guard at SBP	₹1,272	
Claimants	Widow, 2 minor children		
	Heads of claim	Tribunal	High Court
Sr. No.		Amount (₹)	Amount (₹)
1.	Income		1,272
2.	Add,% of increase 30%/50%		1,653.60
3.	Deduction ½, 1/3, ¼, 1/5		1,102.4
4.	Multiplicand		13,229
5.	Multiplier	16	14
6.	Loss of dependence		1,85,206
7.	Medical expenses		
8.	Loss of consortium		50,000
9.	Loss of love and affection		1,00,000
10.	Loss to estate		2,500
11.	Funeral expenses		2,500
	Total	1,53,600	3,40,206

There shall be an award of ₹3,40,206/-.

3. The learned counsel for the appellants refers to a judgment in **Oriental Insurance Company Versus Cheruvakkara**

Nafeessu-2001(2) SCC 491. The Supreme Court was considering the extent of liability that will be absolved by the Insurance Company notwithstanding the restriction of liability and the manner of recovery of the amount over and above the contractual liability. The Supreme Court was holding that the Insurance Company will take the entire liability for the amount as determined by the Tribunal for a third party claim and recover the same against the owner. I will, therefore, apply this judgment and hold that the Insurance Company will be liable for the amount determined with interest at 7.5% from the date of petition till date of payment for the excess amount already ordered. The Insurance Company, in turn, will recover the same against the owner. The amount determined shall be distributed equally amongst the widow and the two children.

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

(K.KANNAN)
JUDGE

26.08.2015
sanjeev/vandana