IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.999 of 1991 and
Cross Objection No.82-CII of 1991
Date of decision: 01.07.2015

The New India Assurance Company Limited ... Petitioner

versus

Smt. Basanti and others .... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. L.M. Suri, Senior Advocate,
with Ms. Rajni Paul, Advocate,
for the petitioner.

Mr. Sandeep Vermani, Advocate,
for respondents 1 to 6.

K.Kannan, J. *(Oral)*

1. The appeal is against the award passed by the Motor Accident Claims Tribunal for the death of a male, aged 30 years, leaving behind the widow, 4 minor children and mother as the claimants. The income of the deceased was ₹ 1,200/- and the court accepted the same, took the monthly dependence at ₹1,000/-, applied a multiplier of 16 and assessed the compensation of ₹1,92,000/-.

2. The scales of compensation for death of a person have become reasonably certain with the decision of the Supreme Court in ***Sarla Verma Versus Delhi Transport Corporation and another- 2009(6) SCC 121*** as regards the deduction to be made, the provision

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for future increase and the choice of multiplier. I will adopt the same. The Supreme Court has also provided for larger sums as loss of consortium and for loss of love and affection for the children and I will apply the same as provided in ***Rajesh Versus Rajbir Singh- 2013(9) SCC 54***.

3. I will rework the compensation and tabulate the same as under:-

Age	30 years		
Occupation			
Claimants	Widow, 4 minor children and mother		
	Heads of claim	**Tribunal**	**High Court**
Sr. No.		Amount (₹)	Amount (₹)
1.	Income	1,200	1,200
2.	Add,% of increase 50%		1,800
3.	Deduction ¼		1,350
4.	Multiplicand		16,200
5.	Multiplier		17
6.	Loss of dependence		2,75,400
7.	Medical expenses		
8.	Loss of consortium to wife		1,00,000
9.	Loss of love and affection for 4 children		2,00,000
10.	Loss to estate		5,000
11.	Funeral expenses		5,000
	Total	1,92,000	5,85,400

The total amount of compensation comes to ₹5,85,400/-.

4. The appeal has been filed by the Insurance Company pointing out to the fact that the policy had been taken under the Motor Vehicles Act, 1939 where the statutory liability for the claim to a third party was restricted to ₹1,50,000/- and the award passed in

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excess to ₹1,50,000/- with interest ought to be directed to be paid only against the owner. I find that the contention of the Insurance Company is perfectly tenable and in accordance with law and would restrict the liability of the Insurance Company to the amount of ₹1,50,000/- with interest which shall be payable between the wife, children equally and the mother of the deceased taking a lesser amount because no amount is provided for loss of consortium or loss of love and affection. The manner of apportionment shall be in the ratio of 2:2:2:2:2:1. The amount determined will also attract interest at 7.5% per annum from the date of petition till date of payment of the award. The amount in excess of the liability as determined by the Insurance Company shall be borne by the owner who has been served through the Manager. The driver has not been served but I do not think it makes a difference, for, the owner is at all times vicariously liable for the act of the driver who is his employee. The award of the Tribunal is modified and the appeal by the Insurance Company is allowed to the extent of the restricted liability as found and the cross objection is also allowed enhancing the compensation and determining the liability making apportionment in the manner done.

(K.KANNAN)
JUDGE

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