IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No.3829 of 2003 (O & M)
Date of Decision: *February 25, 2015*

Inder Pal & others

..... APPELLANT(S)

VERSUS

Parmod Kumar & others

..... RESPONDENT(S)

. . .

CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

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1. Whether Reporters of 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?

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PRESENT: - Mr. Rajender Chhoker, Advocate, for the appellants.

None for respondent Nos.1 and 2.

Mr. Neeraj Khanna, Advocate, for respondent No.3 – Insurance Company.

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Jaspal Singh, J

1. The instant appeal has been preferred by the claimants against Award dated February 01, 2003 passed by the Motor Accident Claims Tribunal, Faridabad (for short, 'Tribunal') whereby a sum of ₹ 1,50,000/- has been awarded as

compensation on account of death of Kamlesh, wife of claimant – appellant No.1, Inder Pal, in a motor vehicle accident involving Tanker No.HR-14/2747. Driver, owner and Insurance Company of the offending vehicle have been held liable to pay the amount of compensation, jointly and severally. Through the instant appeal, appellants have sought enhancement of compensation so awarded by the Tribunal.

2. While assailing the impugned award, learned counsel for the appellants has contended that the compensation awarded by the learned Tribunal is on lower side, therefore, liable to be enhanced. Kamlesh (since deceased), besides looking after her entire family, was running a grocery shop and milk dairy and was earning a sum of ₹ 15,000/- per month. But, learned Tribunal has assessed the monthly income of Kamlesh to the tune of ₹ 1,000/- only. Further, multiplier of 10 has been applied which is contrary to the law laid down by the Hon'ble Apex Court in <u>Sarla Verma Vs. Delhi Transport Corporation</u>, 2009(2) RCR (Civil) 77. Amount awarded on account of funeral expenses, loss of consortium is also insufficient. Thus, amount of compensation awarded by learned Tribunal deserves to be enhanced and atleast just, adequate and reasonable compensation be awarded.

3. On the other hand, learned counsel for respondent No.3 – Insurance Company has controverted the submissions made by learned counsel for the appellants submitting that the impugned award is absolutely in consonance with the evidence available on file and settled canons of law. Each and every aspect of the case has been elaborately discussed at length by the Tribunal before arriving at a conclusion to assess the amount of compensation. An amount of ₹ 1,50,000/- has been awarded alongwith interest @ 9% per annum which is just and adequate compensation. Thus, learned counsel for the respondent – Insurance Company has prayed for dismissal of the appeal with special costs.

4. This Court has given an anxious thought to the submissions made by learned counsel for the parties and gone through the record.

5. The Tribunal assessed the income of deceased as ₹ 1,000/- per month and dependency has been worked out to ₹ 12,000/- per annum. The Tribunal, by applying multiplier of 10, awarded compensation to the tune of ₹ 1,50,000/- including funeral charges, loss of consortium and loss of love & affection.

6. Undoubtedly, it stands amply proved on record that death of Ms. Kamlesh occurred due to rashness and

negligence of offending tanker, which hit the three-wheeler, in which, she was travelling alongwith her family, from behind. As result of the impact, Kamlesh fell on the road and crushed under the wheels of tanker. It is also proved that as her husband was handicap, she used to help him in running the grocery shop and milk dairy besides looking after the entire family. Thus, this Court is of the considered view that assessment of monthly income of Kamlesh to ₹ 1,000/- per month is insufficient and the same is reassessed to the tune of ₹ 2,000/- per month, so, her dependency is assessed to the tune of ₹ 24,000/- per annum.

7. As per the guidelines highlighted in the pronouncement by the Hon'ble Apex Court in Sarla Verma's case (supra), since deceased was 25 years of age i.e. in the age group of 20-25 years, multiplier of 18 deserves to be applied, and therefore, claimants are entitled to compensation to the tune of ₹ 4,32,000/- (2000 X 12 X 18). Similarly, appellants – claimants are also entitled to a sum of ₹ 1 lac on account of loss of consortium; ₹ 25,000/- on account of funeral expenses and ₹ 25,000/- on account of loss of love & affection i.e. totaling ₹ 5,82,000/- as against a sum of ₹ 1,50,000/- awarded by the learned Tribunal, payable by Insurance Company – respondent

No.3, which shall be shared equally by the appellants – claimants.

8. In the light of what has been discussed above, appeal is partly allowed and appellants - claimants are, thus, entitled to enhanced compensation to the tune of ₹ 5,82,000/- instead of ₹ 1,50,000/- awarded by the Tribunal. Enhanced amount shall be payable within a period of 45 days from the date of receipt of certified copy of this judgment and in case of non-compliance by Insurance Company – respondent No.3, the appellants – claimants shall be entitled to interest @ 9% per annum from the date of original claim petition.

9. No order as to costs.

(Jaspal Singh)
Judge

February 25, 2015
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