

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

FAO No.2516 of 1996 (O&M)

Date of decision:09.09.2015

Krishnan Devi and others

... Appellants

versus

Charan Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Nitin Goyal, Advocate,
for Mr. Sanjiv Gupta, Advocate,
for the appellants.

None for the respondents.

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 compensation for death of a male, aged 34 years. The deceased was said to be a driver by profession and at the time of accident, he was actually driving a heavy vehicle proceeding towards north from Delhi on GST road. The accident was a result of collision between two vehicles at 1 AM of 27/28.3.1993. There was yet another person in the cabin who was travelling along with him by name Rishpal Singh. He was not examined and at the trial, it was brought out that summons had been taken but he was not prepared to come to the Tribunal to affirm the

statement which he had given under Section 161 that the other vehicle's driver was responsible for the accident. The first person who claimed to have arrived at the spot was a driver of yet another vehicle proceeding towards Delhi from north to south and he gave evidence to the effect that the first respondent driver overtook him at a high speed and he was arrived at the spot 10 minutes after the accident. He ventured a guess that the deceased driver must have driven the vehicle very carefully and the particular driver who overtook him at a high speed must have been responsible for the accident. The Tribunal had before it the site plan drawn by the police that showed that the vehicle driven by the deceased at the eastern mode extremity coming from the south to north, which was the wrong side of the road, while the first respondent's vehicle had been pushed out of the main road out of the tar portion to the mud portion still further east. From the totality of the circumstances, the Tribunal apportioned the liability in the ratio of 75:25 between the deceased and the insured's driver on the basis that the deceased must take a larger slice of responsibility for the accident. The Tribunal assessed a compensation of ₹1,72,800/- taking the income at ₹1,500/-. The evidence of the wife was that her husband (deceased) used to earn ₹3,000/- and I will take that income as stated by the wife to be correct and take the amount to ₹3,000/- and apply the scales of enhancement as they are now being given providing for a

prospect of increase in his income, making a deduction of 1/4th and applying a multiplier of 16 as suggested in the decision of the Supreme Court in **Sarla Verma Versus Delhi Transport Corporation and another-2009(6) SCC 121** and grant ₹1 lakh as loss of consortium to the wife. Considering that the accident took place in the year 1993 and a provision for interest will take care of an additional amount upto the date of payment an amount equivalent to the amount which is now being awarded, I will grant ₹50,000/- each to each one of the minor children and to the mother and tabulate the various heads of claims as under:-

Accident	28.03.1993		
Age	34		
Occupation	Driver		
Claimants	Wife, 3 minor children and mother		
	Heads of claim	Tribunal	High Court
Sr. No.		Amount (₹)	Amount (₹)
1.	Income	1,500	3,000
2.	Add,% of increase 30%/50%		4,500
3.	Deduction ½, 1/3, ¼, 1/5		3,375
4.	Multiplicand		40,500
5.	Multiplier		16
6.	Loss of dependence		6,48,000
7.	Medical expenses		
8.	Loss of consortium		1,00,000
9.	Loss of love and affection		2,00,000
10.	Loss to estate		5,000
11.	Funeral expenses		10,000
	Total	1,72,800	9,63,000

The aggregate amount would be ₹9,63,000/- and slicing out 75% of the amount as determined by the Tribunal already and affirmed now,

the amount payable will be ₹2,40,750/-. The amount will be distributed in such a way that the wife and 3 children take twice as much as the mother in the ratio of 2:2:2:2:1. The additional compensation shall also attract interest at 7.5% per annum from the date of petition till date of payment. The liability shall be in the same manner as determined already by the Tribunal.

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

(K.KANNAN)
JUDGE

09.09.2015
sanjeev