359 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1) FAO No.1174 of 1998 (O&M).
Decided on: 25.3.2015.

Smt. Surjit Kaur and another
... Appellants
Versus
Jagmit Singh and others ... Respondents

(2) FAO No.1172 of 1998 (O&M).
Decided on: 25.3.2015.

Smt. Surjit Kaur and others
... Appellants
Versus
Jagmit Singh and others
... Respondents

(3) FAO No.1175 of 1998 (O&M).
Decided on: 25.3.2015.
Smt. Baldev Kaur
... Appellant
Versus
Jagmit Singh and others ... Respondents

(4) FAO No.1173 of 1998 (O&M).
Decided on: 25.3.2015.

Jiwan Singh @ Jagjiwan Singh
... Appellant
Versus
Jagmit Singh and others ... Respondents

CORAM : HON'BLE MR. JUSTICE K. C. PURI

Present : Mr. B.B.S. Sobti, Advocate,
for the appellants.

Mr. Harsh Aggarwal, Advocate,
for the PRTC.

K.C.PURI.J.

This judgment shall dispose of afore-mentioned four

FAOs No. 1172-75 of 1998 arising out of the same accident.

FAO No. 1174 of 1998

This is an appeal directed by the parents of deceased Manpreet Singh against the Award dated 28.2.1998 passed by Motor Accident Claims Tribunal, Ludhiana (for short "the Tribunal") for enhancement of compensation in respect of death of Manpreet Singh in a motor vehicular accident.

This appeal is for enhancement of compensation and as such detailed facts have not been narrated.

Learned Tribunal has taken the income of the deceased as Rs.4000/- per month and the dependency has been taken as Rs. 21,000/- per annum and multiplier of 5 has been applied. Another sum of Rs.10,000/- has been allowed in respect of loss of expectancy of life and in this manner, a sum of Rs.1,15,000/- was allowed as compensation.

Learned counsel for the appellants has submitted that income of Rs.4000/- per month is on lower side. The claimants have pleaded the income of the deceased as Rs.10,000/- per month. The deceased was likely to go to Canada as he was married to a Canadian girl few days before the accident. So, the income should have been taken as Rs.10,000/- per month.

I have considered the said submission and have gone through the case file.

So far as the assessment of income as Rs.4000/- per month in the year 1994 is concerned, in my view, that does not call for any interference so, the income of the deceased is taken as Rs.4000/- per month.

The next submission made by learned counsel for the appellants is that multiplier is on lower side because the mother of deceased is still alive and father died in the year 2015 only so, the multiplier of 5 is on extremely lower side and the multiplier of 18 should have been applied.

He has further urged that future prospects of the deceased have not been taken into account and no amount regarding loss of love and affection, funeral rites and last rights etc. has been allowed.

Learned counsel for the appellants has further submitted that interest on the enhanced amount be also granted. However, counsel for the appellants has not addressed any argument regarding damage to the vehicle.

On the other hand, learned counsel for the PRTC respondent has submitted that future prospects cannot be taken into account as the matter regarding grant of future prospects in respect of self-employed person is still sub-judice before the Hon'ble Apex Court in **National Insurance Co. Ltd. vs. Pushpa and others (SLP No.8058 of 2014 decided on 2.7.2014).**

I have considered the submissions made by learned counsel for both the parties and have gone through the case file.

So far as the argument advanced by learned counsel for the appellants to the effect that future prospects in respect of death of Manpreet Singh should have been taken into account is concerned, that argument is devoid of any merit and legal force. In case the claimants are parents in that case, the relevant factor for determining the multiplier and the future prospects is the age of the parents. Since the age of the parents was more than 60 years and as such the claimants are not entitled to claim any amount in respect of future prospects.

The next question which arises for consideration is with regard to applicability of appropriate multiplier. The age of mother of the deceased has been taken as 60 years. The Hon'ble Apex Court in **Sarla Verma's case (supra)** has set at rest the controversy regarding application of multiplier. So, that authority has to be followed in letter and spirit. Thus, by applying the said authority, the multiplier of 9 would be applicable in the age group of 56-60.

Since the parents are the claimants and as such 50% deduction has to be made in respect of personal expenses of deceased. So, the dependency of claimants comes to Rs.2000/- per month and yearly dependency comes to Rs.24,000/- (2000 x 12). In view of **Sarla Verma's case (supra),** the multiplier applicable in the age group of 56-60 is 9. So, by applying that multiplier the amount comes to Rs.2,16,000/-. Learned Tribunal has allowed a sum of Rs.10,000/- regarding expectancy of life. However, this amount is taken as loss of estate. The accident took place in the year 1994 so, another sum of Rs.30,000/- stands allowed in respect of love and affection. Another sum of Rs.14,000/- stands allowed in respect of funeral expenses and transportation etc. so, in this manner, the claimants are held entitled to claim compensation of Rs.2,70,000/- in all. The enhanced amount of Rs.1,55,000/- shall carry interest @ 7.5% per annum from the date of application till date.

FAO No. 1172 of 1998

This appeal has been directed by Baldev Kaur mother of deceased Shelly Simply Kaur and Surjit Kaur and Harbans Kaur mother-in-law and father-in-law respectively of Shelly Simpli Kaur.

Counsel for the appellant has submitted that income of the deceased has been proved as Rs.45,385/- per month from her part time job in Canada. She was a student but the Tribunal has taken the income of the deceased as Rs.3000/- per month. The dependency of parents-in-law and mother has been taken as Rs.300/- each and in this manner the annual dependency has been taken as Rs.15480/-. The multiplier of 6 has been applied and the amount of compensation has been assessed as Rs.92,880/-. The same was rounded off to Rs.93,000/-. An amount of Rs.7000/- has been added to it on account of loss of expectancy of life.

Learned counsel for the appellant has submitted that amount of Rs.3000/- per month as income of Canadian citizen is on lower side.

I have carefully considered the submission made by the counsel for the appellant.

The monthly salary of deceased has been taken as Rs.3000/- per month in the year 1997. Deceased Shelly Simply Kaur was admittedly a student and according to the statement of Baldev Kaur she was spending 4000/- Dollar to 5000/- Dollar per annum towards her fee and 3000 doller for her books. She had also to incur expenses on studies and conveyance charges and for her maintenance. So, the ends of justice would be met in case income of the deceased is taken as Rs.4000/- per month.

Since the claimants are parents-in-law and mother and as such the dependency has to be calculated by deducting 50% towards personal expenses. So, by deducting 50% in respect of personal expenses, the annual dependency comes to Rs.24,000/- (2000 x 12). Age of Baldev Kaur has been mentioned as 54 years. So, the multiplier has to be calculated at the age of mother of deceased namely, Shelly Simply Kaur. So, the multiplier applicable at this age is 11 according to **<u>Sarla Verma's case (supra).</u>** So, by applying the multiplier of 11, the amount of compensation comes to Rs.2,64,000/- (24,000 x 11) and a sum of Rs.20,000/- stands allowed in respect of loss of love and affection and loss of estate. Rs.10,000/- stands allowed in respect of funeral expenses. So, the claimants are held to claim Rs.2,94,000/- on account of death of deceased Shelly Simply Kaur. The enhanced amount of Rs.1,94,000/- shall carry interest @ 7½ % per annum from the date of application till the payment. The liability to pay the amount shall be the same as ordered by the Tribunal. The enhanced amount shall be shared between the claimants including legal representatives of Harbans Lal in equal shares.

<u>FAO No. 1175 of 1998</u>

This appeal has been directed by Baldev Kaur , claimant in the present case is the mother of deceased Tejinder Singh alias Raju aged about 18 years, who was a student of Grade X in Canda. The learned Tribunal awarded Rs.1,00,000/- regarding death of deceased Tejinder Singh alias Raju. The amount of compensation has to be assessed in accordance with the price index prevalent in the year 1994.

However, in my view Rs.1,00,000/- in respect of death of Tejinder Singh alias Raju is on lower side. Therefore, claimant Baldev Kaur is held entitled to claim Rs.2,00,000/- in respect of death of Tejinder Singh alias Raju. Another sum of Rs.20,000/- stands allowed in respect of loss of estate. Rs.10,000/- stands allowed in respect of funeral expenses.

FAO No. 1173 of 1998

This appeal has been directed by appellant Jiwan singh for enhancement of compensation in respect of injuries sustained by him in motor vehicular accident.

The learned tribunal after appraisal of the evidence, allowed Rs.1,00,000/-. The details thereof is as under :-

1. towards medical expenses Rs.50,000/-

2. for pain and suffering, special diet, transportation and for further treatment after discharge from the hospital	Rs.10,000/-
3. Loss of income	Rs.10,000/-
4. Loss of enjoyment of life	Rs.10,000/-
5. Loss of future prospectus	Rs.10,000/-
6. Other Misc. expenses	Rs.10,000/-
Total	Rs.1,00,000/-

Learned counsel for the appellant has submitted that appellant has spent huge amount on medical. It is further submitted that appellant remained indoor patient in DMC from 15.07.1994 to 5.8.1994. The appellant has suffered fracture of nasal bone, suffered the fracture of thigh and also suffered fracture of his wrist and elbow and there was also a fracture of coller bone and received other injuries.

The learned counsel for claimant-appellant has further stated that he was subjected to surgical procedure for the fracture of his nasal bone and also underwent surgery for the fracture of his femur as a rod had to be inserted for the re-union of the said fracture. He remained bed ridden after discharge from the hospital for a period of four months. Even the appellant was walking with the help of crutches till December 1994 when he returned to Canada. The appellant has to engage the services of attendant @ Rs.1000/- per month. The appellant has to discontinue his studies.

In reply to the above noted submissions, counsel for the respondent has submitted that the medical bill of Rs.40,000/- had been produced but the appellant had been allowed a sum of Rs.50,000/-. It is submitted that except bald statement made by the claimant/appellant, no other medical evidence has been produced on the file to show that the appellant had suffered any fracture. The only document he produced that he remained in DMC, Hospital from 15.07.1994 to 5.8.1994.

I have considered the submissions made by both the sides and have gone through the records of the case.

No doubt, no doctor has been examined but the appellant has placed on the file, the record from DMC Hospital Ludhiana and in the case summary, it is mentioned as under :-

> " Fracture Shaft Femur left. Upper with fracture B.B.FA distal end right with fracture radius head with fracture medial epicondyle right with fracture clavicle left with fracture nasal bones. Nasal bone reduction 17.7.94. SK Traction (Upper tibial pin left) with C.R. & A E POP Cast RT. U/L on 19.7.1994. K-Nailing left femur on 26.7.94". There was injury on the fact, left thigh."

So, keeping in view the amount granted in respect of pain and suffering special diet, transportation and for further treatment after discharge from the hospital amounting to Rs10,000/- is on lower side. In view of number of fractures mentioned above, the claimant is held entitled to claim Rs1,00,000/- in respect of pain and suffering special diet, transportation and further treatment. The amount of loss of enjoyment of life also stands enhanced to Rs.30,000/- instead of Rs.10,000/-. Amount of loss of future prospectus and other misc. expenses also stands enhanced to Rs.30,000/- instead of Rs.10,000/- awarded by the Tribunal.

So, in this manner, the claimant is also entitled to enhanced amount of Rs.1,30,000/- keeping in view the price index of 1994. The enhancement regarding pain and suffering, special diet, transportation and for further treatment after discharge from the hospital Rs.90,000/-, loss of future prospectus Rs.20,000/-; Loss of enjoyment of life Rs.20,000/-, total amounting to Rs.1,30,000/-. The enhanced amount shall carry interest of 7½% per annum from the date of filing of petition till payment.

The liability of payment of compensation shall be the same as ordered by the Tribunal.

The appeals stand disposed of accordingly. The Awards of the Tribunal stand modified to the extent indicated above.

25.3.2015. **(K.C.PURI)**
SN/sv **JUDGE**