

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 2846 of 1999 (O&M)
Date of decision 29.04. 2015.

Jasbir Kaur and others

..... Appellants.

versus

Ramesh Pal Singh and others

..... Respondents.

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

1. Whether Reporters of Local Newspapers 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?

Present : Shri Sagar Aggarwal, Advocate
Shri Ashit Malik, Advocate for the appellant.
Shri Neeraj Khanna, Advocate for Insurance Company.

K.C.PURI, J.

This is an appeal directed by legal heirs of Captain Ashwani Chaudhary against the Award dated 26.03.1999 passed by R.C.Gupta, Motor Accident Claims Tribunal, Karnal for enhancement of compensation awarded by the Tribunal.

2. Briefly stated that Jasbir Kaur widow, Sidarth Chaudhary minor son, Priyanka Chaudhary minor daughter and Dr. R.P.Chaudhary father and Smt. Swaraj Chaudhary mother of Captain Ashwani Chaudhry filed claim petition claiming compensation under Section 166 of the Motor Vehicles Act, 1988 (in short – the Act) on account of death of Captain

Ashwani Chaudhary in a motor vehicular accident.

3. The learned Tribunal after adjudication, partly allowed the claim petition and granted a sum of Rs.17,18,000/- to the claimants. The present petition has been filed for enhancement of compensation.

5. Learned counsel for the appellants has submitted that the deceased was a Captain in the army aged 36 years and he had chance of quick promotions and as such the learned Tribunal should have taken into account the future prospectus of deceased. No amount in respect of love and affection has been granted. The amount in respect of consortium is on lower side. No amount in respect of last rites and transportation of deceased has been given. It is further submitted that claimants are five in number so the dependency should have been calculated after deducting 1/4th in respect of personal expenses of the deceased. Counsel for the appellant has relied upon authority **Smt. Sarla Verma and others vs. Delhi Transport Corporation and Anr 2009 (3) R.C.R.(Civil) 77** in support of his contention.

Learned counsel for the respondent has supported the award passed by the Tribunal and has submitted that adequate compensation has been given. He has further submitted that the point regarding future prospectus is pending before the Larger Bench of Supreme Court in a case **National Insurance Co. Ltd. vs. Pushpa and others SLP No.CC8058 of 2014.**

I have carefully considered the said submissions.

9. The Tribunal has taken the proved income of the deceased as

Rs.13,352/- per month. The age of the deceased has been taken as 36 years. 1/3rd amount has been deducted in respect of personal expenses and the dependency has been taken as Rs.8900/- per month. The yearly dependency has been calculated as Rs.1,06,800/- and the multiplier of 16 has been applied. Another sum of Rs.9200/- has been allowed in respect of loss of consortium. In this manner the amount calculated was Rs.17,18,000/-.

The first point which requires consideration is whether the claimants are entitled to calculate the amount of compensation by taking into view future prospectus. The answer to that question is in positive. In authority **Smt. Sarla Verma and others' (supra)**, the Hon'ble Apex Court has held that where the person is Government servant and is earning increments, in that case, future prospectus to the extent of 50% can be taken in case the age of the deceased is less than 40 years. In the present case, age of the deceased was 36 years, which has not been disputed by the other parties. The income of deceased of Rs.13,352/- has also not been disputed by any of the parties.

So far as authority **National Insurance Co. Ltd. vs. Pushpa and others' case (supra)** is concerned, the point in issue before Larger Bench is whether future prospectus should be given in respect of a person who is self-employed or on a fixed salary? The point in issue, in that case, was not in respect of permanent Government employee. The deceased was a Captain in the Army and is likely to be promoted in the due course in case he would have been alive. So, the future prospectus to the tune of 50% has to be taken into account. So, by adding the amount of Rs.6676/- which is

half of Rs13,352/- in respect of future prospectus, the monthly income of deceased comes to Rs.20,028/- in view of authority **Smt. Sarla Verma and others' (supra)**. Since the claimants are more than four, so by deducting $\frac{1}{4}^{\text{th}}$ amount in respect of personal expenses, the amount of dependency comes to Rs15,021/- per month. The yearly dependency comes to Rs.1,80,252(15021x12) as the deceased was 36 years of age and as such the multiplier applicable at this age as per **Smt. Sarla Verma and others' (supra)** is 15. So, by applying the multiplier of 15, the total amount comes to Rs.27,03,780/-. Another sum of Rs.10,000/- stands allowed in respect of last rites and transportation. The amount of Rs.9200/- in respect of consortium keeping in view the price index of the year 1997 is on lower side. So, a sum of Rs.25,000/- stands allowed in respect of consortium. Another Rs.25,000/- stands allowed in respect of loss of love and affection. The said amounts have been calculated keeping in view the price index of the year 1997.

10. So, in this manner the claimants are held entitled to claim the enhanced amount of Rs.27,63,780/-, which shall carry interest @ $7\frac{1}{2}\%$ per annum from the date of claim petition before the Tribunal till the date of realization. The amount already paid to claimants/appellants shall be adjusted against the above said amount.

11. In the manner indicated above, the present appeal stands disposed of accordingly.

12. A copy of this judgment be sent to the Tribunal for strict compliance.

(K.C.PURI)
JUDGE

April 29, 2015
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