

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

**FAO No. 963 of 1998 (O&M)
Decided on : 11.03.2015**

Smt. Kavita and Others

...Appellants

versus

Bijender 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 : Mr. Sanjay Mittal, Advocate
for the appellants.

Mr. D.K. Dogra, Advocate
for respondent No. 3-Insurance Company.

K. C. PURI, J. (ORAL)

Since, liability of the insurance company has been held and as such, service of driver and owner stands dispensed with.

Challenge in this appeal is to the award dated 12.03.1998, passed by Shri R.C. Kathuria, Motor Accident Claims Tribunal, Gurgaon, for enhancement of compensation.

Briefly stated, Smt. Kavita widow of Ved Prakash (deceased), Rohit and Priti, minor children of deceased, Manohar Lal-father and Smt. Chawli-mother of deceased, preferred claim petition claiming compensation to the tune of ₹ 13 lacs on account of death of Ved Prakash in a motor vehicular accident.

The learned Tribunal after adjudication accepted the claim petition and awarded a sum of ₹ 3,87,840/-. The salary of deceased was proved on the

record as ₹ 3,437/-, out of which ₹ 250/- as house rent allowance and ₹ 158/- as training incentive were excluded. The total income of the deceased was taken as ₹ 3,029/- and after deducting 1/3rd amount on personal expenses as ₹ 1,000/-, the dependency was calculated as ₹ 2,020/- and after applying the multiplier of 16, the amount was calculated as ₹ 3,87,840/-.

Learned counsel for the appellant has submitted that deceased was 25 years of age. The deduction in respect of house rent allowance and training incentive has been wrongly made. It is further submitted that future prospects of deceased-Ved Prakash has not been taken into account. It is further contended that deceased was 25 years age and multiplier applicable according to authority **Sarla Verma and Others Versus Delhi Transport Corporation and Another**” 2009 (3) RCR (Civil) 77 should be 18. It is further submitted that no amount in respect of love and affection and funeral expenses has been allowed.

Learned counsel for respondent No. 3-Insurance Company has submitted that amount granted by the Tribunal is adequate.

The deceased in present case was of 25 years which fact has not been disputed. Proved income of deceased-Ved Prakash was ₹ 3,437/-. The deduction in respect of house rent allowance and training incentive has been wrongly made by the Tribunal.

The Hon'ble Apex Court in authority **Sarla Verma's case (supra)**, has held that where the deceased was in a permanent job and was below 40 years, in that case an addition of 50% of actual salary to be added in respect of future prospects. So, by taking into account, the ratio

of said judgment, the income of deceased comes to ₹ 5,155/-. In this case, claimants are five in number, so by applying the ratio of **Sarla Verms's case (supra)**, the deduction in respect of personal expenses should be one-fourth. So, by deducting $1/4^{\text{th}}$ i.e. ₹ 1288/- (₹ 5155 x $1/4^{\text{th}}$) in respect of personal expenses, the dependency comes to ₹ 3867/- (₹ 5155-1288). The yearly dependency comes to ₹ 46,404/- (₹ 3867 x 12) As per **Sarla Verms's case (supra)**, the multiplier is of 18, so by applying that multiplier, the amount comes to ₹ 8,35,272/-.

The accident had taken place in the year 1996. So, the funeral and other expenses cannot be less than ₹ 10,000/-. So, the appellants are held entitled to Rs. 10,000/- in respect of funeral expenses. Another sum of ₹ 30,000/- stands allowed in respect of loss of love and affection. So, the appellants are held entitled to claim ₹ 8,75,272/- say ₹ 8,75,300/-. The enhanced amount shall carry interest at the rate of 7.5 per cent per annum from the date of application till payment. The liability to pay the amount alongwith interest is that of Insurance Company. The amount of compensation shall be shared by the appellants in the same share as awarded by the Tribunal.

The appeal stands disposed of.

March 11, 2015
dk kamra

(K.C. PURI)
JUDGE