407 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1) **FAO No.513 of 2001 (O&M).**
Decided on: 27.3.2015.

Lekh Raj and others
... Appellants

Versus

Gurmail Singh and others ... Respondents

(2) **FAO No.2643 of 2000 (O&M).**

Bawa Singh and others
... Appellants

Versus

Gurmail Singh and others
... Respondents

(3) **FAO No.2882 of 2001 (O&M).**

Data Ram and others
... Appellants

Versus

Gurmail Singh and others
... Respondents

(4) **FAO No.2561 of 2000 (O&M).**

Dayal Chand
... Appellant

Versus

Gurmail Singh and others
... Respondents

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

Present : Ms. Nitika Jindal, Advocate for
Mr. Vishal Gupta, Advocate,
for the appellants.

Mr. Satpal Dhamija, Advocate with
Mr. Abhishek Goel, Advocate,
for the insurance company.

K.C.PURI.J.

This judgment shall dispose of afore-mentioned four FAOs bearing No. 513 of 2001, 2643 of 2000, 2882 of 2001 and 2561 of 2000 arising out of the same accident.

FAO No. 513 of 2001 in respect of death of Balbir Kaur

This is an appeal directed by husband and minor children of deceased Balbir Kaur claiming enhancement of compensation. Learned Motor Accident Claims Tribunal, Rupnagar (for short "the Tribunal") vide Award dated 9.11.1999 has allowed compensation of Rs.1,44,000/-.

The claim of the claimants is that the deceased was earning Rs.2000-2500/- per month from diary business.

Learned Tribunal has assessed the loss of dependency to the tune of Rs.1000/- per month and yearly dependency was taken as Rs.12,000/-. The age of the deceased was 28 years and multiplier of 12 was applied and in this manner, total compensation of Rs.1,44,000/- was awarded to the claimants.

Learned counsel for the appellants has submitted that multiplier applicable at the age of 28 years, according to authority **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another 2009(6) SCC 121,** is 17 and no amount in respect of loss of consortium and no amount in respect of loss of love and affection has been allowed. It is further submitted that no amount in respect of funeral expenses has been allowed. It is further submitted that future prospects have not been considered.

Learned counsel for the insurance company has submitted that deceased had no permanent income and as such future prospects cannot be considered. He has not disputed the factum that multiplier applicable in this case was 17. It is further submitted that amount of compensation has rightly been awarded according to the prevailing law.

I have considered the said submissions and have gone through the record of the case.

The case of the claimants themselves is that deceased was earning Rs.2000-2500/- per month from diary farming. The income of the deceased can be taken as Rs.1500/- per month in the year 1997.

In view of the authority **Balbir Kaur and others vs. State of Haryana and others (FAO No.3903 of 2012 decided on January 15th, 2014),** the claimants are also held entitled to claim amount regarding future prospects. So, an addition of 50% is granted towards future prospects in view of authority **Rajesh and others vs. Rajbir Singh and others 2013 ACJ 1403**. Thus, the income of the deceased comes to Rs.2250/- per month (1500+750). In this case, there are five claimants so, keeping in view authority **Salra Verma's case (supra)**, deduction of 1/4th is made from the income of the deceased towards his personal and living expenses and the monthly dependency is assessed at Rs.1687/-. The yearly dependency comes to Rs.20244/- (1687x12). As per authority **Sarla Verma's case (supra),** the multiplier applicable at the age of 28 years, is 17 so, by applying that multiplier, the loss of dependency is assessed at Rs.3,44,148/-. A sum of Rs.10,000/- stands allowed in respect of funeral expenses and transportation etc. The husband of the deceased is held entitled to a sum of Rs.30,000/- for loss of consortium. The claimants are also held entitled to a sum of Rs.30,000/- for loss of love and affection. Thus, the claimants are held entitled to claim compensation of Rs.4,14,148/-. For convenience, the figure is rounded off to Rs.4,14,150/-. The enhanced amount of Rs.2,70,150/- shall carry interest @ 7.5% per annum from the date of application till payment. The amount shall be shared equally. In case any of the claimants is still minor, the amount shall be deposited in the shape of FDR till he/she attains the age of majority. The liability to pay the amount of compensation shall be the same as ordered by the Tribunal.

FAO No.2643 of 2000 in respect of death of Meeto @ Gurmeet Kaur

In this case, the claimants are children and husband of deceased Meeto @ Gurmeet Kaur. Taking the deceased as housewife, the Tribunal assessed monthly loss of dependency at Rs.1000/-. The deceased was 52 years old. So, multiplier of 8 was applied and the loss of dependency was assessed at Rs.96,000/-. Besides, a sum of Rs.4000/- was awarded for funeral expenses. Thus, total compensation of rupees one lac was awarded to the claimants.

Learned counsel for the appellants has submitted that the amount of compensation is on lower side.

The income of the deceased is assessed as Rs.1500/- per month. The deceased was 52 years old and as such addition of 15% towards future prospects has to be given as per authority **Rajesh's case (supra).** Thus, the income of the deceased comes to Rs.1725/- (1500+225). The claimants were four in number so, 1/4th of the income is deducted for personal and living expenses of the deceased. In this manner, the monthly dependency comes to Rs.1294/- (1725 - 431). The yearly loss of dependency comes to Rs.15,528/- (1294 x 12). The multiplier of 11 is applicable at the age of 50 so, by applying that multiplier, the loss of dependency is assessed as Rs.1,70,808/-(15,528 x 11). A sum of Rs.10,000/- stands allowed in respect of funeral expenses and transportation etc. The husband of the deceased is held entitled to a sum of Rs.30,000/- for loss of consortium. The claimants are also held entitled to another sum of Rs.30,000/- for loss of love and affection.

Thus, the claimants are held entitled to total compensation of Rs.2,40,808/-. The enhanced amount of compensation is Rs.1,40,808/-.

FAO No.2882 of 2001 in respect of death of Santosh Kumari

In this case, the claimants are children and husband of deceased Santosh Kumari. Considering the deceased as housewife, the Tribunal assessed monthly loss of dependency at Rs.1000/-. The deceased was 42 years old. So, multiplier of 12 was applied and the loss of dependency was assessed at Rs.1,44,000/-.

Learned counsel for the appellants has submitted that the amount of compensation is on lower side.

So, the income of the deceased is assessed as Rs.1500/- per month. The deceased was 42 years old at the time of her death so, an addition of 30% is granted to the income of the deceased towards future prospects and the amount comes to Rs. 1950/- (1500 + 450). As there are four claimants, so, deduction of 1/4th is made for personal and living expenses of the deceased. The monthly dependency thus, comes to Rs.1463/- (1950-487) and the yearly dependency comes to Rs.17556/-(1463 x 12). The multiplier applicable at the age of 42 years is 14 so, by applying that multiplier, the loss of dependency is assessed at Rs.2,45,784/-. A sum of Rs.10,000/- stands allowed in respect of funeral expenses and transportation etc. The husband of the deceased is held entitled to a sum of Rs.30,000/- for loss of consortium. The claimants are also held entitled to another sum of Rs.30,000/- for loss of love and affection.

Thus, the claimants are held entitled to total compensation of Rs.3,15,784/-. The enhanced amount of compensation is Rs.1,71,784/-.

FAO No.2561 of 2000 in respect of injured Dayal Chand

This is an appeal directed by injured Dayal Chand for enhancement of compensation in respect of injuries sustained by him in the motor vehicular accident.

Learned Tribunal has taken the income of the claimant-appellant-injured as Rs.1800/- per month. It has been further observed by the Tribunal that claimant suffered 100% disability and he remained admitted for treatment in PGI and other hospital and as such a sum of Rs.2 lac was granted in all. The age of the claimant was held to be 32 years.

Learned counsel for the appellant has submitted that amount of compensation is on lower side. It is further submitted that no amount was awarded in respect of future prospects, transportation, special diet, pain and suffering and loss of income. No amount has been granted under the head of disability. It is further submitted that under consolidated heads of pain and suffering, medical expenses, a sum of Rs.2 lacs has been granted which is on lower side. It is further submitted that appellant has been paralysed of both the lower limbs.

Learned counsel for the insurance company has submitted that amount of Rs.2 lacs in respect of injured was sufficient.

I have considered the said submissions made by both the sides and have have through the case file.

However, in the present case, original record is stated to have been burnt in the accidental fire took place in the record room and as such this Court has to rely upon the assertion made in the Award itself.

In this case, in paragraph No.85 of the Award, it is mentioned that Dr. Anil Kumar Jain appeared as PW-6 who has stated that he medico-legally examined Dayal Chand-appellant on 30.1.1997. He has stated that Dayal Chand was bleeding from nose freshly. He was advised x-ray of the skull; He laboured respiration. Advised X-ray chest and; Paraplegia was present and patient complained of severe low back pain. He was advised x-ray lumbosacral spine. As per this paragraph, the appellant remained admitted in PGI from 30.1.1997 and was discharged on 1.2.1997 and he was suffering from dislocation of spine. The claimant had also produced Disability Certificate (Ex P-27) before the Tribunal in which it is mentioned that Dayal Chand has suffered permanent disability to the extent of 100%. It is further mentioned that both lower limbs have been paralysed due to the injury in the accident and he was also suffering from dislocation of spine. With these injuries, the appellant cannot sit, run or do any other job. Instead of providing any help or maintain his family members, he has become dependent upon them. It is further mentioned in this paragraph that due to the injuries received in the accident, the appellant has been struggling between life and death. It is further mentioned that on 27.7.1999 the appellant was brought by holding his both arm by two persons and he cannot be treated as injured person rather his life has become hell. So, in these circumstances, the amount of Rs.2 lacs granted to the appellant is on extremely low side.

The Tribunal has taken the income of appellant as Rs.1800/- per month. He was 32 years old at the time of accident. The future prospects have also to be taken into consideration while allowing the compensation. So, an addition of 50% to the income of injured is granted for future prospects and in this manner, the income comes to Rs.2700/- per month (1800+900). The annual loss of income comes to Rs.32,400/- (2700 x 12). The appellant was 32 years old and the multiplier applicable at this age is 16 so, by applying that multiplier, the loss of dependency comes to Rs.5,18,400/-(32,400 x 16). A sum of Rs.50,000/- stands allowed in respect of pain and suffering keeping in view the price index of year 1997. The said amount is rounded off to Rs. 6 lacs by adding the amount in respect of pain and suffering, special diet, transportation, loss of pleasure of life. Thus, the claimant-injured Dayal Chand is held entitled to claim compensation of Rs.6 lacs. The enhanced amount is Rs.4 lacs.

In all the four appeals, the enhanced amount of compensation shall carry interest @ 7.5% per annum from the date of application till payment. In case any of the claimants is still minor, the amount shall be deposited in the shape of FDR till he/she attains the age of majority. The liability to pay the amount of compensation shall be the same as ordered by the Tribunal.

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

27.3.2015. **(K.C.PURI)**
SN **JUDGE**